July 12, 2006

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 06-IEP-1 and No. 03-RPS-1078
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Commission:

Re: Southern California Edison Company's Comments on the Workshop on the Mid-Course Review of the Renewables Portfolio Standard Process

Southern California Edison Company ("SCE") appreciates this opportunity to comment on the issues raised in connection with the Commission's July 6, 2006 "Mid-course Review of the RPS Program." The workshop notice raises 21 specific questions, which are addressed in the attachment to this letter. This letter provides a more general assessment of where SCE stands with respect to implementation of the RPS program.

SCE is working very hard to achieve 20% renewables by 2010. In 2005, SCE purchased or produced nearly 13,000 GWh of renewable power, approximately 17.2% of its bundled retail sales. SCE has completed two solicitations for renewable power, is in the process of completing a third solicitation, and will commence a fourth solicitation this month.

These efforts have produced thirteen contracts with renewable projects that are expected to yield between 960 – 1,700 MW of on-line capacity, in the range of 4,000 to 6,000 GWh of renewable energy. Eleven of these contracts, representing between 700 – 1,500 MW of capacity, are with new renewable projects contracted to come on line between now and 2009. SCE is committed to making all reasonable efforts to bring these projects on line as soon as possible. SCE is finalizing negotiations with the short-listed parties in its current solicitation, and expects to present more contracts to the Public Utilities Commission ("CPUC") for review and approval this fall.

Implementation of the RPS program is well under way at the CPUC. SCE has been an active participant in numerous CPUC proceedings that have resulted in at least fifteen decisions and numerous rulings on various aspects of the RPS implementation, including development of the market price referent, standard terms and conditions for RPS contracts, and the least cost/best fit evaluation process. The CPUC continues to review various aspects of the implementation of the RPS program, including application of the RPS program elements to non-IOU LSEs, accounting and compliance issues, flexible compliance issues and renewable energy credits. These are important issues that should be considered in a timely way – particularly application of the RPS program to ESPs, CCAs and small and multi-jurisdictional utilities. While some work clearly remains to be done, most of the program elements have been implemented. With most of the program elements in place, now is not the time to second guess, much less abandon, the state's RPS effort.

At "mid-course," the impediments to achieving the State's goal of 20% renewables by 2010 have become apparent:

- There is insufficient transmission access for remotely located, new renewable development;
- The State cannot achieve its overall goal unless the RPS program elements are applied equitably and symmetrically to all LSEs;
- Actual bids received do not indicate economically developable resources on the scale optimistically suggested in studies of "gross technical potential";
- Renewable energy credits are not the answer, at least in the near-term, because there is no in-state source of such credits from projects that are not already committed to an LSE and there is no credible evidence that new renewable resources can be developed absent a long term contract with a creditworthy counterparty such as an IOU or governmental entity.

These impediments are real. Unless more renewable resources emerge *and* solutions are found to expedite the availability of sufficient transmission, the State will likely fall short of its aggressive goals in 2010. However, SCE is doing everything that it can to get over these hurdles. For example:

- SCE is seeking developer input to find "the next Tehachapi," that is, other areas where renewable projects are likely to be developed if transmission is built;
- To stimulate a greater response from renewable developers and a more rapid contracting process, SCE is evaluating revisions to contract terms and conditions. SCE received valuable input from bidders individually and through SCE's May workshop. The workshop on contracting and credit issues last week also provided insight;
- SCE has been a leader in pushing the Tehachapi transmission project forward, and has three active CPCN applications for approval of the first phase of the Antelope upgrades pending before the CPUC. SCE sought authority for a Renewable Trunk Line at FERC in 2005. Although this proposal was rejected by FERC, the California Independent System Operator ("CAISO") is now making a similar proposal at FERC;
- SCE continues to work with regulators and the CAISO to improve the interconnection process and to facilitate development of needed transmission for renewables:
    - SCE filed AL-1950, and gained CPUC authority to fund interconnection/ environmental studies for renewable projects with contracts, thereby avoiding a one-year delay in regulatory approvals;
    - SCE is funding up-front the transmission interconnection studies/environmental studies for projects with contracts.

SCE is interested in identifying creative means of increasing participation by renewables in the RPS solicitation process and expediting the planning, approval and construction of transmission needed to access renewable resources. While SCE views reaching the State's goals as a stretch, the collective efforts of policy makers, load-serving entities, and renewable developers -- working together -- can get the State as close as possible.

If you have any questions regarding these comments, please call me at (916) 441-2369.

Sincerely,

Manuel Alvarez

cc: Chairwoman Jackalyne Pfannenstiel
Commissioner John L. Geesman
Commissioner James Boyd
Commissioner Arthur H. Rosenfeld
Commissioner Jeffrey Byron

Southern California Edison Company's Responses to CEC RPS Issues for 2006 IEPR Status Report

Southern California Edison Company (SCE) offers the following responses to the specific questions raised in the attachment to the Notice of Workshop Re Midcourse Review of the RPS Program.

1. Ways to make the least-cost, best-fit process more transparent.

The least cost/best fit (LCBF) evaluation process is well known and understood to industry participants, CPUC and CEC staff and SCE's procurement review group (PRG). Recently, SCE provided an overview of its least-cost, best-fit evaluation methodology at its workshop for potential RPS bidders. The workshop included a question & answer session at which SCE answered any and all questions the attendees had regarding how LCBF is performed and how evaluation conforms to LCBF philosophies. See attached slides. Further, SCE has modified the language in its solicitation protocols to more explicitly describe its application of LCBF standards in its evaluation methodology.

Transparency of the evaluation process should be distinguished from input values and bid scoring results. SCE's evaluation process is adequately transparent, although there may be room for some additional communication. However, the bid input values and the bid scoring results are market sensitive information and should be remain confidential. Past experience has proven that revealing the detailed input values and assumptions will result in gaming.

In any event, the CPUC's recent decision implementing SB 1488 examines the confidentiality processes applicable to information at the CPUC, which has the jurisidiction for implementing and overseeing the LCBF evaluation process. That decision requires somewhat greater disclosure with respect to RPS related data because of the public interest in renewable procurement. The decision governs the disclosure of such information. Moreover, to the extent that either the CEC or the public have concerns about the integrity of the evaluation process, the CPUC has also recently required IOUs to employ an independent evaluator to review and evaluation of bids from beginning to end and to provide additional transparency to CPUC and CEC staff and SCE's PRG.

2. How to simplify the process used to determine the market price referent (MPR), including how time-of-delivery factors are derived and applied, and ways to ensure that assumptions used are the same as those used in the CPUC's allsource procurement so the two procurement processes are consistent.

The CPUC's energy division staff and stakeholders participated in extensive technical workshops to develop the MPR methodology and consensus was achieved

regarding almost all aspects of the MPR methodology. SCE was an active participant in these workshops, and proposed the "cash flow simulation" methodology that was accepted by parties as an appropriate and effective tool for deriving the MPR. SCE welcomes ideas on how to simplify the process.

3. How best to balance utilities' desire for data confidentiality with policy makers' need for complete bid data in order to appropriately award supplemental energy payments (SEPs).

The CPUC has recently issued a decision regarding confidentially that addresses this issue. It is unclear to SCE why policy makers believe that they need the entire bid data history to award supplemental energy payments. We can understand why the CEC might be reluctant to award SEP payments for projects that may not be perceived as viable. However the bid data will not address this issue. Rather, the pertinent consideration is project viability. In this regard, if the CEC has concerns, it should condition the award of SEP funds on the developer making an adequate showing with respect to its financial condition, on line data, output, business plan, etc. at the time it applies for SEP funding.

4. Are further steps needed to get RPS solicitations on an annual cycle with pre-established dates for release of RPS solicitations, when bids are due, selection of short list bidders, and approval of contracts?

Solicitations are currently migrating towards an annual cycle. However the goals of the programs are best met by the Sellers and Buyers spending the necessary time to develop contracts that will allow for the specific development circumstances surrounding each project. These often range from phased projects, to transmission constrained projects to projects which have not yet fully developed their fuel resource (for example - geothermal field not fully investigated, all wind studies not done).

5. In D.06-05-039, the CPUC allowed IOUs to use their contingency planning to account for contract failure in procuring sufficient energy to achieve 20 percent renewables by 2010. Are further steps needed to trigger additional procurement if contract failure exceeds IOUs' expectations?

In both of the renewable solicitations held by SCE, SCE has contracted for substantially more energy than was required by the CPUC or the default 1% of retail sales. Utilities should be responsible for monitoring the progress of the projects under contract and modifying their purchase targets as it becomes evident that projects are being cancelled.

6. Recognizing that the CPUC plans to address applying the renewable "rebuttable presumption" consistently to all procurement, the IEPR-RPS midcourse review provides an opportunity to catalyze innovative ideas to be further developed in that process. What suggestions do you have on this topic?

SCE has made provisions to include QF and renewable projects into its all-source solicitation process and has had an overall robust response to the solicitation.

7. Strategies to address the current CA ISO interconnection queue process, which may be preventing successful renewable generation projects from being constructed.

To the best of SCEs knowledge, the CA ISO has been processing all large generator interconnection requests in accordance with the Large Generator Interconnection Procedures (LGIP), as required under FERC regulations and the CAISO tariff.

The interconnection process under the LGIP is the same for all large generators requesting interconnection to the CAISO system. This process does not prevent other generators from interconnecting to the system, and it seems unlikely that it would be preventing renewable generation projects from being constructed.

The studies for each phase are scheduled to be completed and submitted to the Interconnection Customer within the following number of days:

- **Feasibility Study - 60 calendar days**
- **System Impact Study – 120 calendar days**
- **Facilities Study – 120 calendar days for +/- 20% cost estimate accuracy and 210 calendar days for +/- 10% cost estimate accuracy**

8. How to modify the current transmission interconnection process so that existing users of transmission, primarily fossil-fueled generators, are not given priority for current transmission capacity while renewable generators, the preferred resources in the state's loading order policy, are required to upgrade transmission to gain access to the grid.

FERC Order 2003 culminated a two-year rulemaking process which involved the participation of stakeholders, including transmission providers, generators, and other market participants. Order 2003 requires public utilities that offer transmission service to offer non-discriminatory, standardized interconnection services to large generators.

In FERC Order 2003, FERC stated: "Interconnection plays a crucial role in bringing much-needed generation into the market to meet the growing needs of electricity customers. Further, relatively unencumbered entry into the market is necessary for competitive markets. However, requests for interconnection

frequently result in complex, time consuming technical disputes about interconnection feasibility, cost, and cost responsibility. This delay undermines the ability of generators to compete in the market and provides an unfair advantage to utilities that own both transmission and generation facilities. The Commission concludes that there is a pressing need for a single set of procedures for jurisdictional Transmission Providers and a single, uniformly applicable interconnection agreement for Large Generators. A standard set of procedures as part of the OATT for all jurisdictional transmission facilities will minimize opportunities for undue discrimination and expedite the development of new generation, while protecting reliability and ensuring that rates are just and reasonable."

In implementing this standard set of procedures as part of the OATT for all jurisdictional transmission facilities, FERC explicitly precludes giving priority to any generator. The corollary to this policy is that, as stated in FERC Order 2003, "[W]e believe that Queue Position must play a critical role in determining cost responsibility, and expect the Transmission Provider to give appropriate recognition to Queue Position when it develops its cost allocation rules."

Accordingly, it seems that the CAISO and SCE are implementing this rule consistent with FERC policies.

9. Ways to amend the CA ISO tariff to allow the interconnection of large concentrations of renewable generation resources located within a reasonable distance of the existing CA ISO grid; including a recently proposed CA ISO request for a declaratory order on renewable transmission from the Federal Energy Regulatory Commission.

A major issue facing wind generation developers today is that transmission owners are reluctant to build new transmission lines without commitments from generators. Conversely, generation developers are reluctant to pay for generation tie lines and to provide up front funding of network transmission facilities that are needed to connect new generation resources to the transmission grid. The resulting stalemate has been labeled the "chicken and egg" problem. SCE's petition for Declaratory Order filed at FERC on March 24, 2005, provided a practical solution to this "chicken and egg" problem in support of the state's RPS goals. Unfortunately, FERC did not approve the SCE request for the trunkline proposal.

The CAISO recently developed a proposal similar to SCE's request in its petition for declaratory order. SCE generally supports the CASIO proposal to file a petition for declaratory order at FERC to request approval for trunkline facility cost recovery through the CAISO OATT. SCE believes a special category of transmission assets should be created in the CAISO tariff to facilitate the interconnection of renewable resources to the grid. To qualify for an exemption

from current FERC rate treatment, SCE believes the proposed trunk-line extensions should be required to meet the following criteria:

a. Large renewable generation potential exists within a limited geographic area that is a reasonable distance from the existing grid;
b. The state has determined, through its legislature, regulatory authority, or RTO/ISO that the trunk-line is necessary to accommodate state renewable resource goals and costs should be recovered from users of the network;
c. State policy requires the procurement of new renewable resources in amounts that make accessing those resources necessary and desirable;
d. Trunk-lines should be high voltage (220 kV and higher) and be required to extend the grid to a reasonably central location or locations within the renewable resource area and should not be extended to every "spoke" of the system that is required to interconnect each individual renewable resource project; and,
e. Other requirements, as necessary.

SCE also proposes that these trunk-line facilities be turned over to the operational control of the CAISO, despite current CAISO tariff provisions that would not include gen-ties under CAISO control.

With regard to cost recovery, SCE believes the cost of these facilities should be rolled-into the TAC charge and recovered from all users of the CAISO-controlled grid to the extent those costs are not paid for by the interconnecting generators for which the facilities are required. Renewable generation benefits the entire population of the state and those benefits should not come at the expense of a limited group of ratepayers.

10. How to ensure that transmission cost estimates in the investor-owned utilities' Transmission Ranking Cost Reports used to evaluate RPS bids are appropriate and do not impose new barriers to renewable development.

SCE developed the Transmission Ranking Cost Report describing the renewable conceptual transmission upgrades and their associated costs based on the updated supplemental solicitation information. The purpose of the transmission ranking cost report is to provide an estimate of the necessary interconnection cost information to be used solely for evaluating renewable resource bids so that the most cost-effective bids can be selected on a total cost basis. (See response to Q.8 above) It should be noted that in general, except where explicitly noted, the estimates in this report were derived by utilizing standard off the shelf unit-cost-guides and thus should not be used for any other purpose other than bid evaluation comparison.

The approach utilized in SCE's TRCRs is consistent with that outlined in Attachment A of CPUC Decision 04-06-013 including modifications issued in CPUC Decision 05-07-040. Geographic clusters of renewable resources within the SCE service territory were identified based on renewable resources requesting interconnection via the CAISO Interconnection and supplemental information received in response to SCE's requests for supplemental information.

SCE's TRCRs present the estimated cost for the revised identified conceptual transmission network upgrades and revised phasing needed to accommodate the interconnection and delivery of generated power from all renewable resource projects received in response to SCE solicitation as well as the renewable resources currently progressing through the FERC mandated generation interconnection process.

SCE's TRCRs do have limitations, including, but not limited to the following:

a. **Exact location and project generators' specifications are not fully available.**
b. **This transmission plan and cost report is not a part of the FERC TO / WDAT tariff interconnection process which must be followed by all renewable bidders in order to be interconnected to the existing system.**
c. **Detailed system impact studies for each renewable project need to be performed to identify the actual impacts of the project on the existing electric system.**
d. **Detailed facilities studies for each renewable project need to be performed to properly engineer, design, and estimate actual costs of the facility upgrades required.**
e. **Detailed substation site review is needed.**
f. **Detailed rights-of-way review is needed.**
g. **Detailed environmental assessments needs to be performed for new sites and new line routes proposed, including alternatives for the substation sites and transmission line routing, as well as proposed mitigation measures.**
h. **Cost estimates were prepared utilizing standard off-the-shelf unit-cost guides which can have an accuracy of plus/minus forty-percent.**

Typically, in order to develop the cost estimates, the renewable resources identified were grouped into clusters. Each of the clusters resulted in the inclusion of different facilities for evaluating a transmission bid adder. Some of the facilities will be common to all clusters.

SCE's total installed capital cost (or initial rate base) estimates were calculated based on the year spent and included Pensions and Benefits (P&B), Administrative and General (A&G) and the Allowance for Funds Used During Construction (AFUDC). SCE's estimate of the "Net Present Value of Lifecycle Revenue Requirement" included AFUDC, taxes, insurance, future removal, future salvage and all other costs included to determine the cost impact to ratepayers. The NVP of Lifecycle Revenue Requirement was calculated based on current year dollars.

A revenue requirement was calculated for two types of expenditures – O&M and capital. Both types of expenditures were converted to revenue requirements using an annual methodology. O&M expenditures, direct and indirect capital expenditures were transformed to revenue requirements by applying a franchise fee and uncollectible factor. Capital expenditures, direct and indirect, were first accumulated over time applying AFUDC to arrive at a total installed cost. The total installed cost was then transformed to a revenue requirements stream over the lifecycle of the project. The annual levelized revenue requirement in nominal dollars of this NPV of Lifecycle Revenue Requirements is a function of book and tax lives, cost of capital, and tax rates.

11. Focusing state research and development efforts on issues surrounding integrating large amounts of intermittent renewable resources into the state's electric grid without adversely affecting reliability or system operations.

The CEC is currently conducting a study regarding the integration of intermittent generation resources. SCE looks forward to continuing to participate in the CEC's efforts on the issue.

12. Regarding ESPs and CCAs, should the MPR and SEP processes be applied, and, if so, how should these be applied for contract terms of less than 10 years?

Yes. This is required by statute. Both Pub. Util. Code section 380(e) and the RPS statute mandate that the requirements and elements of the RPS program be applied equally to IOUs and non IOU LSEs such as CCAs and ESPs.

The CPUC recently conducted a week of evidentiary hearings on the specific issue raised, i.e., whether contracts of less than 10 years length should be made available to non-IOU LSEs. Opening briefs have been filed and reply briefs will be filed on July 6.

If a project were attempting to recover all of its capital costs over a period of less than 10 years, the total contract price would likely be considerably higher than that for a project seeking to recover the same costs over a longer contract term. In such cases, it is entirely possible that the project will require greater SEP funding. This is certainly something that the CEC should consider in determining whether to

award SEP funds to such a project, assuming that the CPUC authorizes such contracting authority.

13. What further actions are needed to ensure that publicly owned utilities, ESPs, and CCAs meet the same targets, timelines, and eligibility standards as IOUs, and what type of exemption process is needed to avoid overly burdensome requirements for smaller entities?

The CPUC should issue a decision clearly and unequivocally implementing Pub. Util. Cod Section 380(e) and the RPS with respect to non-IOU LSEs in the same manner that it is applied to IOUs.

14. How to implement the 2005 Energy Report recommendation to explore limited use of renewable energy certificates for RPS compliance to facilitate uniform participation by all load serving entities.

In the absence of any RECs at this time, and the likely unavailability of in-state, eligible RECs for RPS compliance any time in the near future, it is unclear what is being asked by this question. Furthermore, there is no clear and convincing evidence that renewable resources can be sustained merely on the basis of the existence of RECs. Although it was mentioned during the workshop that some states, including Texas, use RECs as a means of compliance, the claim that implementation of an unbundled and/or tradeable REC program in California would be sufficient, in and of itself, to stimulate and sustain new project financing is premature and unsubstantiated.

15. The desirability of establishing a single RPS target reflecting the total amount of renewable generation needed each year to meet the 2010 RPS goals.

Substantial effort that has already been expended in this area by the CPUC Energy Division, stakeholders and others at the CPUC through workshops, white paper and comments. We expect that a Proposed Decision is forthcoming shortly. SCE has attached a copy of its comments.

SCE has commented extensively on related areas in its' Comments (March 13, 2006) and subsequent Reply Comments (March 22, 2006) on Staff White Paper Titled "RPS Annual Procurement Targets: Reporting and Compliance". Specifically, under an APT-centered methodology, there is no need to look separately at baseline and incremental procurement. There is one procurement measure: total renewable procurement. This includes all of the LSE's procurement from eligible renewable energy resources for the year.

Some have expressed a concern that by not separating out baseline from incremental, LSEs will go out and buy only existing renewable generation. However, virtually all existing renewable generation is already in some LSE's

portfolio, and all LSEs are short renewables. The only long-term solution for LSEs to meet their RPS obligations is to contract for new renewable generation. The large IOUs have spent the last few years aggressively contracting with new renewables because they need new renewable generation. An APT-centered methodology will still encourage the development of new renewable resources.

SCE is aware that an APT-centered methodology may have some drawbacks. However, SCE recommends that the state fully consider such a methodology, possibly through workshops, because a methodology centered on the APT appears to be a simpler and more rational way to achieve the goals of the RPS legislation

16. Whether statutory requirements that generation from specific geothermal, small hydro, and municipal solid waste combustion facilities apply only to the baseline are still necessary, and whether those restrictions would hamper movement to a single RPS target.

See Response to Question 15.

17. Whether statutory requirements applying to incremental geothermal should be removed.

See Response to Question 15.

18. How generation from renewable distributed generation facilities is counted toward RPS compliance, including resolving issues related to public subsidies and measurement (CPUC Decision 05-05-11, May 5, 2005).

SCE is currently counting only metered excess energy produced by renewable distributed generation facilities. We are not counting any generation that is used to serve on-site loads. However, to the extent that these projects are financed under existing ratepayer subsidized programs, SCE believes that any renewable credots should accrue to SCEs ratepayers.

19. How California should apply prevailing wage requirements to out-of-state facilities wishing to receive SEPs.

No Response.

20. How California should apply requirements for biomass fuel from timber operations to out-of-state biomass facilities or in-state facilities that obtain fuel from tribal or national forest land that also wish to receive SEPs.

No Response.

21. Potential alternatives to a third-party escrow account that would provide the needed assurance regarding SEPs to lenders in order for projects to receive financing.

An alternative must be found. It may be that legislative action is required to address the asymmetry between directives in the RPS statute and CPUC decision to require LSEs to offer contracts with terms greater than 10 years and the ostensible limitation in the Public Resources Code of 10 years on SEPs. If that is the case, SCE recommends that the Commission expressly seek and endorse appropriate legislative reform.

SOUTHERN CALIFORNIA EDISON
An *EDISON INTERNATIONAL* Company

Cathy A. Karlstad
Attorney
Cathy.Karlstad@sce.com

March 13, 2006

Docket Clerk
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

RE: Rulemaking 04-04-026

Dear Docket Clerk:

Enclosed for filing with the Commission are the original and five copies of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON STAFF WHITE PAPER TITLED "RPS ANNUAL PROCUREMENT TARGETS: REPORTING AND COMPLIANCE" in the above-referenced proceeding.

We request that a copy of this document be file-stamped and returned for our records. A self-addressed, stamped envelope is enclosed for your convenience.

Your courtesy in this matter is appreciated.

Very truly yours,

Cathy A. Karlstad

Enclosures

cc: All Parties of Record
(U 338-E)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the California Renewables Portfolio Standard Program.	)))	Rulemaking 04-04-026

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON STAFF WHITE PAPER TITLED "RPS ANNUAL PROCUREMENT TARGETS: REPORTING AND COMPLIANCE"

FRANK J. COOLEY
BERJ K. PARSEGHIAN
CATHY A. KARLSTAD

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-1096
Facsimile: (626) 302-1904
E-mail: Cathy.Karlstad@sce.com

Dated: March 13, 2006

TABLE OF CONTENTS

TABLE OF CONTENTS

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the California Renewables Portfolio Standard Program.	)))	Rulemaking 04-04-026

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON STAFF WHITE PAPER TITLED "RPS ANNUAL PROCUREMENT TARGETS: REPORTING AND COMPLIANCE"

Pursuant to the February 23, 2006 Administrative Law Judges' Ruling Regarding Comments on Reporting Issues (ALJ Ruling) and the extension of time granted by Administrative Law Judge Mattson by telephone and confirmed by e-mail on March 10, 2006, Southern California Edison Company (SCE) respectfully submits these comments on the Energy Division staff white paper titled "RPS Annual Procurement Targets: Reporting and Compliance" (White Paper).

I.

INTRODUCTION

On February 15, 2006, Energy Division staff issued the White Paper. The White Paper outlines proposed methodologies for Renewables Portfolio Standard (RPS) reporting, accounting, and compliance and introduces new terminology in an effort to clarify and expand upon the definitions and methodologies introduced in prior Commission decisions. In addition, the White Paper proposes uniform principles and standards to determine compliance by all load-serving entities (LSEs) with the RPS program established in SB 1078 and to provide a common basis for all LSEs to report their compliance status. On February 16, 2006, the Energy Division sponsored a workshop concerning the White Paper. On February 23, 2006, Administrative Law Judges Mattson and Simon issued the ALJ Ruling requesting the parties' comments on the White

Paper. The ALJ Ruling asked that comments address the issues and questions identified in Attachment B to the ALJ Ruling, along with anything else upon which the parties wish to comment.[1] The ALJ Ruling also requested that parties attach a redlined version of the White Paper to their comments, "with the party's specifically and precisely proposed alternative language, where appropriate."[2] SCE's redline of the White Paper is attached as Appendix A to these comments.[3]

SCE participated in the workshop and appreciates this opportunity to provide comments on the White Paper. The issues of accounting and reporting are central to the question of whether an LSE is in compliance with the requirements of the RPS legislation and the Commission's decisions implementing the RPS program. These issues also are directly related to whether penalties for non-compliance will be assessed, and if so, when and in what amount.

Before turning to specific comments, SCE makes the general observation that addressing accounting and reporting issues in a systematic way is necessary and long overdue. As could be expected given the relatively short period the Legislature gave the Commission to implement a complex new program, early Commission decisions implementing the RPS legislation were not always a model of clarity and have created some confusion. By way of example, the Commission has used the terms "annual procurement target" (APT) and "incremental procurement target" (IPT) loosely, if not interchangeably. It is extremely important that the basic concepts of RPS accounting and compliance be universally understood, and that precise and commonly accepted nomenclature be developed to express these concepts. SCE welcomes

---

1 ALJ Ruling at 1.

2 *Id.*

3 SCE has attempted to redline the White Paper in accordance with the ALJ Ruling's direction. There is an inherent difficulty, however, in doing a line-by-line edit of a White Paper with which SCE has fundamental disagreements. SCE disagrees with some of the fundamental logic underlying the White Paper and SCE's redline may not fully explain SCE's problems with the White Paper's underlying assumptions. Accordingly, although SCE has attempted to redline the White Paper, the redline should not be interpreted as indicating SCE's agreement with the White Paper's methodology. Where there is any question regarding SCE's position, these comments should prevail over the redline.

this process as an opportunity for the Commission to provide certainty to all LSEs and other stakeholders regarding RPS accounting, compliance, and reporting.

In developing methodologies for RPS accounting and reporting going forward, SCE recommends that the Commission adhere to the following guiding principles:

1. ***The rules must comply with the RPS legislation.*** As the ALJ Ruling recognizes, any accounting and reporting rules should comply with the RPS statute and seek to ensure that the Legislature's goals are achieved.
2. ***To the extent possible, the rules should adhere to prior Commission decisions implementing the RPS legislation; however, the Commission should retain the flexibility to adopt modifications to the rules as necessary, particularly if past decisions are ambiguous, lead to confusion, or are not the best method to achieve the goals of the RPS legislation.*** The large investor-owned utilities (IOUs), at least, have been complying with the RPS program based on prior Commission decisions for three years; therefore, the Commission should not depart from prior decisions without good reason. The Commission should, however, clarify the rules where necessary and fill in gaps not addressed by prior decisions. The Commission should also consider new rules that are consistent with the RPS legislation, but simpler and more effective methods to achieve the goals of the statute than the rules in prior Commission decisions, such as an APT-centered alternative methodology like the one discussed in Section IV below.
3. ***The rules should be fair.***
4. ***The rules should be applied equally to all LSEs.*** Public Utilities Code Section 380(e) provides that "[e]ach load-serving entity shall be subject to the ***same requirements*** for . . . the renewables portfolio standard program that are applicable to electrical corporations pursuant to this section, or otherwise required

by law, or by order or decision of the commission."[4] The RPS legislation also requires that electric service providers (ESPs) and community choice aggregators (CCAs) shall be "subject to the ***same terms and conditions***" applicable to electrical corporations.[5] The rules should comply with these statutory mandates to treat all LSEs equally with respect to the RPS program.

5. ***Simpler is better.***

6. ***The rules should not create market power for LSEs, renewable generators, or other market participants.***

7. ***Each kilowatt-hour of renewable energy should only be counted once.*** There should be no double counting of renewable energy output towards RPS obligations. There should also be no double counting of RPS shortfalls for the purpose of assessing penalties.

8. ***The rules should not unfairly advantage or disadvantage any type of renewable technology.*** One of the goals of the RPS legislation is to increase the diversity of California's energy mix.[6] The RPS accounting and reporting rules should not unduly benefit certain renewable technologies over others.

9. ***The rules should account for the realities of the renewable energy market and the transmission infrastructure in California.*** The RPS legislation was enacted to encourage the development of new renewable resources in California. The current renewable energy market does not have sufficient existing resources for California LSEs to meet their RPS obligations. The development of new renewable projects takes time. New renewable projects generally have longer development cycles than conventional generation projects. Moreover, most new renewable projects will be located in areas without sufficient existing

---

[4] Cal. Pub. Util. Code § 380(e) (*emphasis added*).
[5] Cal. Pub. Util. Code §§ 399.12(c)(2), 399.12(c)(3)(C) (*emphasis added*).
[6] Cal. Pub. Util. Code § 399.11(a).

transmission capacity to interconnect and deliver the output of the projects. Permitting and constructing new transmission facilities for these projects typically takes four to seven years. Accordingly, the rules should recognize that, while LSEs can immediately sign contracts for new renewable energy deliveries, actual deliveries from the projects are not likely to occur for several years.

With these principles in mind, SCE addresses the specific issues raised for comment and discussion by the White Paper. In addition, in Section IV below, SCE proposes an alternative accounting methodology focusing on the APT. The proposed methodology meets all of the principles described above. Other parties supported an APT-based accounting methodology at the February 16 workshop. There appears to be sufficient interest in such an approach to warrant further consideration by Energy Division staff and RPS stakeholders.

II.

COMMENTS ON THE WHITE PAPER

A. Recommended Changes To Specific Definitions, Formulas, And Sample Calculations In The White Paper

1. 2002/2003 Interim Procurement Benchmark

The White Paper includes a discussion of the large IOUs' 2003 renewable procurement obligations. The White Paper states that "IOUs are required to comply with th[e] APT procurement obligation effective January 1, 2004" and that "there is no APT for 2003."[7] The White Paper also states that the large IOUs had no IPTs for 2003.[8] In addition, the White Paper provides that "[r]egarding the IOUs' pre-2004 RPS procurement obligations, D.02-08-071 and D.04-06-014 established an interim procurement benchmark for 2002/2003 . . . ."[9]

---

[7] White Paper at 4-5.
[8] *Id.* at 8 ("The IOU IPT, which first applies in 2004, is calculated using the following equation. . . .").
[9] *Id.* at 4 n.8.

SCE agrees with this analysis. Before the RPS legislation was enacted, pursuant to D.02-08-071, the Commission ordered the large IOUs to conduct interim solicitations for new renewable resources in the amount of at least 1% of their 2001 retail sales with deliveries beginning in 2003.[10] In D.04-06-014, the Commission set 2002/2003 interim procurement benchmarks for the large IOUs based on 1% of their 2001 retail sales, *i.e.*, the amount of new renewable procurement the large IOUs were required to achieve pursuant to D.02-08-071.[11] The Commission also compared the large IOUs' actual 2002/2003 interim procurement to their 2002/2003 interim procurement benchmarks and calculated 2003 renewable banks or deficits for each large IOU.[12] The Commission held that the large IOUs could use any procurement in excess of their 2002/2003 interim procurement benchmarks towards meeting future RPS obligations.[13] Accordingly, as stated in the White Paper, the large IOUs did not have "IPTs" for 2003, they had "2002/2003 interim procurement benchmarks" that were calculated based on 1% of their 2001 retail sales, their interim procurement obligations pursuant to D.02-08-071.

One issue not addressed in the White Paper is whether geothermal production that is not certified as "incremental" by the California Energy Commission (CEC) can be used towards the large IOUs' 2002/2003 interim procurement benchmarks. The Commission has previously ruled that uncertified geothermal production can count for that purpose. In D.03-06-076, the Commission held that CEC certification was not a requirement for interim procurement.[14] Accordingly, the large IOUs should be able to count geothermal production that is not certified as "incremental" by the CEC towards their 2002/2003 interim procurement benchmarks. Indeed, the Commission counted SCE's production from Calpine's Geysers geothermal facilities towards its 2002/2003 interim procurement benchmark in D.04-06-014.[15]

---

[10] D.02-08-071, *mimeo.*, at 33-34. The Commission clarified that the 1% purchase requirement was based on 2001 retail sales in D.02-10-062. D.02-10-062, *mimeo.*, at 22 n.13.
[11] D.04-06-014, *mimeo.*, Appendix B at B-3-B-5.
[12] *Id.*
[13] *Id.* at 10-11.
[14] D.03-06-076, *mimeo.*, at 36.
[15] D.04-06-014, *mimeo.*, Appendix B at B-4.

In that same decision, the Commission did state that while "[u]nder D.03-06-076, PG&E and SCE may use their interim procurement geothermal contracts to satisfy certain aspects of their RPS procurement requirements," *i.e.*, the 2002/2003 interim procurement benchmarks, "the extent to which this interim procurement can be banked forward to satisfy future IPTs is subject to determination by the CEC."[16] Accordingly, while SCE and the other large IOUs can use geothermal production that is not certified as "incremental" by the CEC to meet their 2002/2003 interim procurement benchmarks, they cannot bank such production forward to satisfy future RPS IPTs. The large IOUs' renewable procurement in excess of their 2002/2003 interim procurement benchmarks can only be banked forward to meet IPTs in 2004 and future years if it is certified as "incremental" by the CEC.[17]

This approach is consistent with the legislation, past Commission precedent and the basic analysis provided in the White Paper with respect to accounting for the years 2002 and 2003.[18] It is important that the White Paper specifically address the treatment of procurement from existing geothermal facilities in order to ensure fair and equal application of the RPS accounting methodologies to all LSEs. In order to assess the overall progress of the State and the relative progress of all LSEs towards the RPS goals, it is essential that there be a single rule on this

---

[16] *Id.* at 10 n.11.

[17] *Id.* at 10-11.

[18] The Commission denied SCE's application for rehearing of D.05-07-039's treatment of SCE's procurement from Calpine's Geysers facilities in D.06-01-046. Although SCE disagrees with the Commission's decisions in D.05-07-039 and D.06-01-046, SCE accepts the Commission's rulings and is not trying to reverse them here.

In its application for rehearing of D.05-07-039, SCE did not specifically address the issue of whether geothermal output not certified as "incremental" by the CEC could count towards the 2002/2003 interim procurement benchmark only, but not be banked forward to use towards future IPTs. Thus, the Commission did not make a determination on this issue. SCE's application for rehearing did refer to the counting of Geysers output towards SCE's "2003 IPT." However, after reviewing past Commission decisions and the White Paper, SCE concluded that its 2003 requirement was not an "IPT," but rather an interim procurement requirement or a "2002/2003 interim procurement benchmark." The issue of whether uncertified geothermal output counts towards this 2002/2003 interim procurement benchmark is a separate issue from whether such output counts towards the large IOUs' IPTs for 2004 and future years. As discussed above, in D.03-06-076, the Commission held that CEC certification was not a condition for meeting the interim procurement requirement, and in D.04-06-014, the Commission stated that while the large IOUs could use interim geothermal contracts to satisfy their interim procurement requirements, the extent to which this interim procurement could be banked forward to meet 2004 and future IPTs was subject to CEC certification.

particular type of procurement and that it be applied evenhandedly. Therefore, SCE recommends that the White Paper be modified to address accounting for procurement from existing geothermal facilities in a manner consistent with the discussion in this section of SCE's comments.

2. Annual Procurement Target (APT)

The White Paper defines APT as follows: "An LSE's APT for a given year is the [total] amount of renewable generation a[n] LSE must procure in order to meet the statutory requirement that it increase its renewable procurement by at least 1% of retail sales [in that] year."[19] SCE agrees with this definition of APT. However, the discussion in the White Paper concerning how the APT should be calculated unnecessarily complicates RPS accounting. Specifically, it is unnecessary to introduce the concept of a "baseline target" into the calculation of the APT. The "current year baseline target," as defined by the White Paper, is the prior year APT. The White Paper specifically states that the "current year baseline target" represents "the total amount of renewable procurement from the prior year that the utility must retain in its portfolio (i.e., prior year APT)."[20] Given that the "current year baseline target" is the same thing as the prior year APT, there is no reason to further complicate the RPS accounting rules by introducing the new term "baseline target." A far more direct and much simpler calculation of the current year APT is:

Current Year APT = Prior Year APT + Current Year IPT

This calculation is consistent with the RPS legislation, which refers to "annual procurement targets," but never mentions "baseline targets." It is also consistent with prior Commission decisions, which have never used the term "baseline target." Finally, it is consistent with the principle that simpler is better. RPS accounting is already complicated; there is no

---

[19] White Paper at 4. The bracketed language in the quote is offered to clarify the definition. SCE does not believe that these proposed revisions change the definition in substance.

[20] White Paper at 5.

reason to introduce a new "baseline target" to calculate an LSE's APT when that "target" is merely the prior year APT.

As recognized in the White Paper, however, it is necessary to calculate the first year APT, *i.e.*, the APT for 2004, without reference to a prior year APT because there was not an APT for 2003. For the large IOUs, the 2004 APT can be calculated as follows:[21]

2004 APT = 2001 Total Renewable Procurement + 2002/2003 Interim Procurement Benchmark + 2004 IPT

This is essentially the method used by the White Paper. However, as discussed above, SCE recommends doing away with the term "baseline target."

SCE proposes to eliminate use of the "baseline target" as part of the calculation of APT for the period 2004-2010, and therefore would revise Table 1 to read:

Revised Table 1: 2004 - 2010 Annual Procurement Target Calculation (kWh)

#		**2003**	**2004**	**2005**	**Calculation**
A	Retail Sales	1000	1000	1000	- -
B	***Prior Year APT***	N/A	500	510	Prior year D
C	Incremental Procurement Target	N/A	10	10	Prior year A * 1%
D	Annual Procurement Target	500[22]	510	520	B + C

Finally, the White Paper does not discuss whether penalties will be imposed on APT shortfalls, as well as IPT shortfalls. Unless the Commission moves to an APT-based accounting methodology like the one discussed in Section IV below, no penalties should be assessed on APT shortfalls. This issue is discussed in more detail in Section III.A below.

---

[21] The first year APTs for other LSEs would have to calculated with reference to their baselines.

[22] This is 2001 total renewable procurement plus 2002/2003 interim procurement benchmark for the large IOUs.

3. Baseline Target, Baseline Procurement, And Baseline Erosion

a) Baseline Target

As discussed above, the White Paper introduces a new term into the RPS nomenclature: "baseline target." SCE recognizes the need to monitor an LSE's baseline, but prefers to refer to this accounting definition as "baseline status" in order to avoid any inference that might be drawn from use of the term "target" that failing to maintain baseline in a given year would, in and of itself, trigger the imposition of penalties. In other words, while SCE agrees that it is essential to track fluctuations in baseline status in order to assess an LSE's overall progress towards 20% renewables, SCE is concerned that casual use of the term "target" may have unintended consequences. The White Paper does not indicate that penalties will be imposed for failure to meet "baseline targets." However, if it is the position of Energy Division staff or the Commission that an LSE can or should be subject to penalties for falling short of a "baseline target," this intention should be stated expressly so that parties can comment fully on such a proposal. As discussed below, if penalties are going to be imposed for failure to meet some type of "baseline target," the Commission should consider implementing baseline banking and other flexible compliance mechanisms similar to those that can be used in connection with an LSE's IPT.

No penalties should be imposed for baseline shortfalls. As the Commission is aware, there is no statutory authorization, much less a requirement, for the imposition of monetary penalties on LSEs that fail to satisfy their obligations under the RPS legislation. Certainly, there is nothing in the RPS legislation or prior Commission decisions that suggests penalties will be imposed for baseline shortfalls. Moreover, the overarching goals of the RPS legislation – attaining 20% renewable energy in the State and ensuring that all LSEs reach 20% renewables – do not justify the imposition of penalties for baseline shortfalls. LSEs are required to satisfy their IPTs each year until they reach 20% renewables or face potential penalties. They are also

required to maintain 20% renewables once they get there or face potential penalties. Thus, LSEs already have ample incentives to procure new renewable resources and maintain their baselines.

Presumably, the Commission decided to establish a penalty scheme in order to provide additional incentives for LSEs to comply with the statute. That is, the threat of penalties will provide additional motivation to do what is already required by law. In order for such a penalty system to have any legitimate purpose, the target of the penalties must have the ability to modify its behavior to avoid them. An LSE should not be subject to penalties, much less penalized, for matters over which it exercises little or no control.

LSEs have limited ability to prevent baseline shortfalls. For example, LSEs have no control over fluctuations in their renewables resources' production which may cause baseline shortfalls (or increases). Similarly, LSEs cannot prevent unexpected project outages that may substantially affect their baseline procurement in a particular year. It makes little sense to penalize LSEs for shortfalls in baseline as a result of such fluctuations, especially when there are no sources of immediate deliveries of new renewable procurement to fill in LSEs' baselines.

LSEs may have some control over baseline shortfalls caused by expiring contracts, or at least the ability to anticipate when such shortfalls may occur. They can attempt to sign new contracts with such projects. However, imposing penalties on LSEs for baseline shortfalls caused by expiring contracts will give generators with expiring contracts significant bargaining leverage. Procuring sufficient deliveries to replace output under an expiring contract from a new renewable project will likely take too long given development cycles and transmission constraints. Therefore, the LSE's only options will be to sign a new contract with the project whose contract is expiring or, potentially, to sign a contract with an existing project that has an expiring contract with another LSE. At any given point in time, this will be an extremely small class of potential counterparties; indeed, the LSE's options may, realistically, be limited to resigning its own existing project in order to avoid the imposition of penalties. It should be obvious that this small class of generators already has significant bargaining leverage; the threat of penalties will merely further disadvantage LSEs and their ratepaying customers. Imposing

penalties for baseline shortfalls resulting from contract expirations will not promote "good RPS behavior;" nor will it promote any legitimate policy. Rather, penalizing baseline shortfalls will vest substantial bargaining leverage, if not market power, in a few generators, encourage "poaching" of existing projects among LSEs, and undermine the goals of the RPS legislation by encouraging LSEs to negotiate bilateral deals without regard to least cost/best fit evaluation of resources in competitive solicitations.

The Commission does not exempt LSEs from maintaining their baselines if it does not impose penalties on baseline shortfalls. Each LSE still has to reach 20% renewables; and each LSE still has an annual IPT obligation – on which it faces potential penalties – until it reaches 20%. An LSE that does not maintain its baseline will move further away from 20% and thus will have more years with IPT obligations, and the corresponding potential penalties, than an LSE that maintains its baseline. Regardless of whether penalties are imposed for baseline shortfalls, LSEs must still reach 20% renewables or be subject to penalties every year.[23]

Regardless of the terminology ultimately adopted to describe the concept of a "baseline target" addressed in the White Paper, however, the calculation proposed by the White Paper is fundamentally flawed. Specifically, the White Paper proposes to define "baseline target" as:

Current Year Baseline Target = Prior Year Baseline Target + Prior Year IPT[24]

The fundamental problem with this formulation is that it mixes apples and oranges – specifically, ***actual*** procurement with procurement ***targets***. Baseline is fundamentally a measure of actual procurement. Thus, the initial baseline is an LSE's actual procurement from renewable resources in 2001 under the RPS legislation.[25]

---

[23] If the Commission does intend to impose penalties for failure to meet some "baseline target," then, as discussed in Section II.A.3.b below, the Commission should consider some type of baseline "banking." If an LSE will be subject to penalties for not meeting its "baseline target," then the LSE should be able to bank forward surplus baseline. Any other result would be unfair and asymmetrical. In addition, the same flexible compliance rules used for the IPT should be applied to the "baseline target" if LSEs will be penalized for not meeting the "target."

[24] White Paper at 6.

[25] Cal. Pub. Util. Code § 399.15(a)(3).

It makes no sense to increase the baseline each year by the IPT (which may or may not be met). Rather, it makes sense to increase the baseline each year by the actual incremental procurement in that year. That is, the baseline should never be increased to reflect anything other than ***actual*** procurement.

The calculation of the "baseline target" proposed in the White Paper produces perverse and, presumably, unintended results. Under the White Paper formulation, if an LSE's baseline in Year 1 is 200 units and it has an IPT of 10 units, but only procures 5 units, the "baseline target" for Year 2 is 210 units, not the 205 units the LSE actually procured in Year 1. Thus, the LSE has a baseline that is higher than its actual renewable procurement in the prior year. Similarly, if the LSE's baseline in Year 1 is 200 units and it has an IPT of 10 units, but procures 15 units, the "baseline target" for Year 2 is 210 units, not the 215 units the LSE actually procured in Year 1. Thus, the LSE's baseline is lower than its actual renewable procurement in the prior year.

SCE recommends that the term "baseline target" be replaced with the term "baseline status" to reflect the fact that the LSE is not penalized for not meeting its "target." Baseline status should be measured by ***actual*** procurement not ***targets***:

Current Year Baseline Status = Prior Year Baseline Status + Prior Year Incremental Procurement

b) Baseline Procurement And Baseline Erosion

SCE agrees generally with the statement in the White Paper that there are three potential sources of energy that can be used to make up baseline erosion: (1) baseline procurement from a facility already under contract with the LSE; (2) baseline procurement from a facility categorized by the CEC as non-incremental; and (3) incremental procurement with deliveries in the current year.[26] SCE also recognizes the importance of monitoring what it would call "baseline status" because, although an LSE could faithfully meet its IPTs each year, it could actually have a net decrease in renewable procurement (in kWh) or as a percentage of its retail sales, if there is any

[26] White Paper at 7.

significant attrition in the LSE's baseline. However, the proposed treatment of baseline erosion in the White Paper is flawed.

The White Paper proposes that if an LSE is unable to make up baseline erosion in the "current year . . . then the deficit is added to the current year's IPT."[27] No reason is given for this proposed treatment of baseline erosion. Nothing in the RPS legislation or the Commission's prior decisions suggests that current year baseline erosion not made up in the current year is added to the current year IPT. There are a number of potential problems associated with the White Paper's proposal to add baseline shortfalls into IPT.

First, adding an LSE's baseline shortfall to the LSE's IPT increases all three of the LSE's "targets:" the IPT, the APT, and the baseline target. Under the White Paper's methodology, the LSE's IPT is 1% of prior year retail sales + current year baseline erosion shortfall. Thus, the IPT increases if there is a baseline shortfall. The LSE's baseline target is the prior year baseline target + prior year IPT and the LSE's APT is the current year baseline target + current year IPT. Because the IPT increases if there is a baseline shortfall, the baseline target and APT also increase if there is such a shortfall. Therefore, under the White Paper's methodology, the LSE has three "targets" and they all increase more quickly if the LSE has a baseline shortfall than if the LSE does not have one.

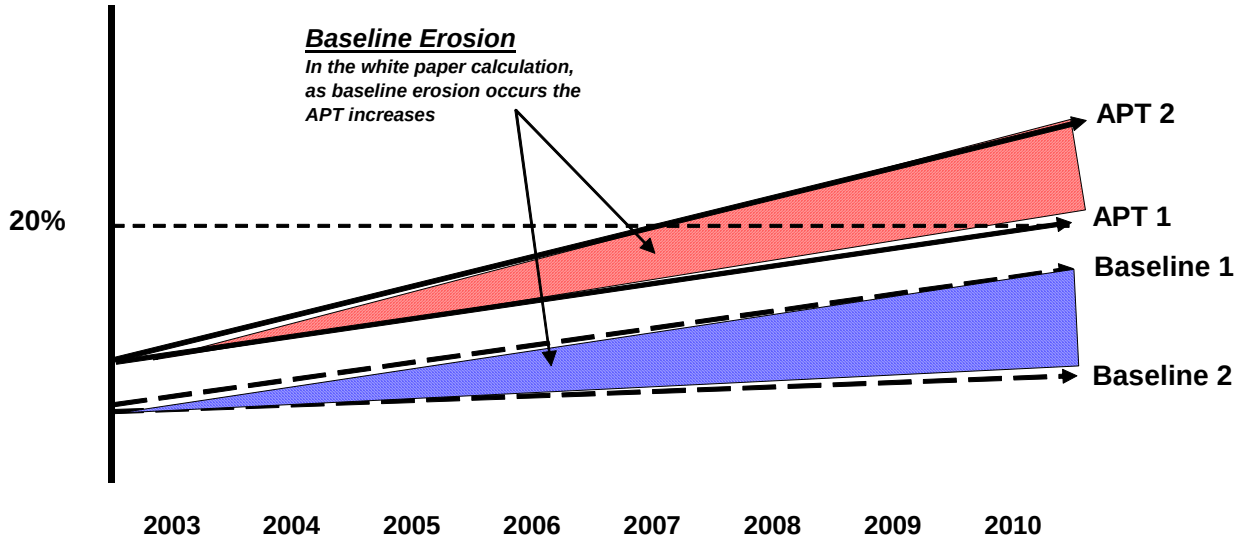
For example, LSE 1 and LSE 2 have the same initial renewable procurement levels and the same retail sales; thus, they have identical RPS targets requiring them to reach 20% by 2010. If LSE 1 has no baseline shortfalls and thus no supplemental increases in its IPTs caused by shortfalls, it will be required to reach 20% by 2010. If LSE 2, which initially had the same targets, has baseline shortfalls that are added to its IPTs, these baseline shortfalls will also be added to its APTs and it will now be required to reach 20% by 2007, not 2010. The difference is shown in the figures below.

---

[27] *Id.*

Increase in LSE 2 APTs Due to Baseline Shortfalls

	2003	2004	2005	2006	2007	2008	2009	2010
BT	14.2%	14.9%	15.6%	16.3%	17.0%	17.7%	18.3%	19.0%
IPT	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Baseline Erosion Added to IPT	0.0%	0.5%	1.1%	1.6%	2.1%	2.5%	3.0%	3.4%
APT with Baseline Erosion	**15.2%**	**16.4%**	**17.7%**	**18.9%**	**20.0%**	**21.2%**	**22.3%**	**23.4%**
Correct APT	**15.2%**	**15.9%**	**16.6%**	**17.3%**	**18.0%**	**18.7%**	**19.3%**	**20.0%**



Two identical LSEs with the same initial renewable procurement levels and the same retail sales should not have different targets and different deadlines to achieve 20% renewables solely based on whether they have baseline shortfalls. Nor should an LSE be punished for having baseline shortfalls by being required to achieve 20% renewables earlier. Yet these are the results of the White Paper's proposed approach of adding baseline shortfalls into IPTs. The LSEs in this example started with the same renewable procurement levels and have identical retail sales, yet they end up having different targets. The result is that an LSE that is struggling to maintain its baseline is further penalized by being required to achieve 20% faster than an LSE that maintained its baseline. The White Paper's proposed approach blurs procurement targets and actual procurement. An LSE's actual renewable procurement and baseline shortfalls or

surpluses may affect how quickly the LSE actually gets to 20% renewables, but they should not affect how quickly the LSE is required to reach 20%.

Second, under the White Paper's proposal, if the ***current year*** baseline shortfall is not made up in the ***current year***, it is added to the ***current year*** IPT. An LSE is therefore faced with a situation in which, by definition, it cannot know what its current year IPT is until the year is over. An LSE could have production fluctuations in its existing resources or an unexpected outage at the end of the year that causes a baseline shortfall, and that, under the White Paper's proposed treatment, would increase the LSE's current year IPT. In that case, the LSE would have no opportunity to conduct any procurement to make up the increased IPT resulting from the baseline shortfall. Moreover, even if the LSE did know it was going to have baseline erosion before the year was over, obtaining actual deliveries from new renewable resources takes time and it is highly unlikely that an LSE could obtain deliveries from an alternative resource to fill a baseline shortfall in the year of that shortfall. Further, as discussed above, even in the case of baseline erosion caused by expiring contracts, LSEs have limited options. Indeed, an LSE's options may effectively be limited to resigning its existing projects at any cost. The White Paper's proposal to add baseline shortfalls to IPT gives generators with expiring contracts even greater bargaining power over LSEs.

After the year in which the baseline shortfall first occurs, the White Paper proposes that the shortfall can only be made up from incremental procurement; and, as discussed above, it is highly unlikely that LSEs will be able to make up all of their baseline shortfalls in the year of the shortfall. LSEs will therefore be required to make up baseline shortfalls with incremental procurement thereby excluding making up such shortfalls from increased output (as opposed to expanded or repowered output) from existing baseline facilities or from statutorily restricted resources.

The proposed treatment of baseline shortfalls is particularly troubling with respect to this second type of resource. Certain geothermal resources (or more appropriately certain output from such resources) can only be used for the purpose of adjusting an LSE's baseline, and can

never be used to meet an IPT. The RPS statute expressly states that these resources "shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources."[28] The proposed rule would effectively mean that if an LSE experienced a baseline shortfall, it could only use an existing geothermal resource to replace that shortfall in the year in which the shortfall first occurred. After that juncture, it could never be used for any purpose for that LSE because, obviously, it would not count towards fulfillment of an IPT. This accounting treatment would provide considerable leverage to the owners of the geothermal resource in the year in which the LSE experienced the baseline shortfall; clearly it would be easier, and preferable to the LSE to make up a baseline shortfall with eligible baseline procurement rather than with incremental procurement. Moreover, the proposed accounting rule could have the opposite, and presumably also unintended, effect of "tainting" existing geothermal resources. By statutory definition they cannot be counted as incremental. Therefore, establishing a rule that rolls baseline shortfalls into the IPT may effectively render the "non-incremental" output from existing geothermal facilities worthless to certain LSEs.

The problems with adding baseline shortfalls into IPT are even further complicated if the Commission accepts the White Paper's determination that an expiring contract is baseline if the project resigns with its existing LSE but incremental if it signs with a different LSE. This distinction places the existing LSE with an expiring contract at a significant disadvantage and has the effect of creating pockets of market power. The rules surrounding baseline erosion should not force SCE or any other LSE into resigning expiring contracts at any price to avoid penalties. New generation with lower prices may protect ratepayers from premium charges from generators in contract negotiations. The new generation may be at a lower price, but may not show up for five to six years based on development cycles and required transmission infrastructure. As a result, baseline maintenance should have rules and standards that allow for the greatest flexibility to protect ratepayers.

---

[28] Cal. Pub. Util. Code § 399.12(a)(2).

Third, the approach to baseline erosion in the White Paper is fundamentally asymmetric because it does not account for situations in which baseline procurement exceeds the "baseline target," as it is defined by the White Paper. This is a fundamental flaw in the approach. It makes no more sense to reclassify a baseline shortfall and include it in an IPT than it would to reclassify baseline procurement in excess of the "baseline target" as incremental procurement that can be banked forward to meet future IPTs. Logically, output from baseline resources can never be "incremental," yet the approach advocated by the White Paper would, theoretically, require such treatment. It is unfair and illogical to add an LSE's baseline shortfall into its IPT, effectively requiring the LSE to use incremental procurement to make up the shortfall, while at the same time giving the LSE no IPT credit for a baseline surplus.

There are also other problems associated with the White Paper proposal to turn baseline shortfalls into IPT. For example, it is easily conceivable that the total output from existing resources in the baseline will exceed the "baseline target" in a particular year, either due to variations in meteorological conditions (*i.e.*, a windier year), or because some facilities may increase their output through technical improvements (as opposed to repowering or expansion, as to which the resulting incremental output should be treated as incremental procurement). However, the White Paper makes no accommodation for such fluctuations in output. Indeed, the procuring LSE can effectively be penalized for events, such as upward fluctuation in the baseline, that are completely beyond its control, since upward fluctuations in baseline procurement will accrue to the next year's baseline target, but there is no corresponding recognition that baseline procurement in the following year may decrease as a result of similarly uncontrollable circumstances. Under the White Paper proposal, a "good" output year followed by a "bad" output year from the baseline could result in the shortfall in the second year being rolled into successive IPT obligations.

Another example of the asymmetry of the White Paper proposal concerns decreases in baseline production occurring from force majeure, that is, events which are, by definition, outside of a party's control. This might include a renewable generator suffering a catastrophic

event or unanticipated equipment failure; it could also include SCE having a transmission line go down. In either case, assuming that the event truly was outside of the responsible party's control, it does not make sense to roll a resulting shortfall into IPT for the next year, particularly if the event is remedied in a timely way so as to restore baseline procurement to its original level.

There are a number of possible approaches to address this issue. Among other things, the Commission could determine, on a case by case basis, whether fluctuations in baseline are due to events beyond the LSE's control – weather, force majeure – and provide an exemption to the LSE for any shortfall. Given the accounting methodology proposed in the White Paper, *i.e.*, calculation of an annual "baseline target," it is unclear what the consequences or implications of such an exemption being granted would be for purposes of accounting and reporting.

A second possible approach would be to establish a "tolerance band" for fluctuations in baseline output. This approach might recognize that variability in baseline output is to be expected, but that such variations will likely net out over time. SCE does not have any empirical evidence that this is necessarily true, although historical deliveries from its existing renewable contracts on a portfolio basis have tended to be fairly consistent over the years despite some volatility in the output of specific facilities. SCE does not have any specific proposal for an appropriate bandwidth for baseline procurement, or how such a tolerance band would be implemented for accounting and reporting purposes.

Finally, the Commission may wish to explore some form of baseline "banking." Although SCE does not necessarily advocate banking of baseline production, the approach would essentially permit LSEs to bank forward baseline procurement in excess of the "baseline target" to a later year to make up a baseline shortfall and also to bank forward baseline deficits for an appropriate period to be determined by the Commission. Such banking would clearly account for fluctuations in baseline output, and also for potential attrition in baseline projects under contract.

4. Incremental Procurement Target (IPT)

As discussed above, the IPT should not include the current year baseline erosion shortfall as proposed in the White Paper. The IPT calculation should simply be:

Current Year IPT = 1% of Prior Year Retail Sales

5. Incremental Procurement (IP)

The White Paper provides that "[i]ncremental procurement for a given LSE is defined as the first twelve consecutive months of renewable procurement from a new or repowered RPS-eligible facility or a new contract for procurement from an existing RPS-eligible facility that has not been under contract to that LSE since January 1, 2001."[29]

The White Paper mentions repowered facilities, but the White Paper should be clarified to make clear that increased output from existing facilities as a result of repowering or expansion is included within its definition and discussion of incremental procurement. The Commission has directed LSEs to include express provisions for repowering and expansion of existing projects within their 10 year renewable procurement plans and their 2006 renewable procurement plans.[30] The Commission should ensure such output is treated as incremental procurement.

Under the White Paper approach, except in certain circumstances, only the first 12 months (the first calendar year) of production from a new or repowered facility can be counted as incremental procurement. Thus, if a new RPS facility began deliveries on January 1, 2006, its production from January 1, 2006 through December 31, 2006 would count as incremental procurement, and any post-2006 production would be baseline procurement.

This methodology should be changed to account for potential start-up problems. New renewable facilities may have startup problems in their first years of production. This is especially likely for projects using new technologies. For example, assume a new renewable

---

[29] White Paper at 8.

[30] Southern California Edison Company's (U 338-E) Revised Renewable Procurement Plan 2005-2014 at 35-37(filed July 6, 2005); Southern California Edison Company's (U 338-E) 2006 Renewables Portfolio Standard Procurement Plan at 19-20 (filed Dec. 22, 2005).

facility expected to produce 2,000 kWh of renewable energy per year begins making deliveries on January 1, 2006, but has a technical problem in February 2006 that causes the project to go off-line from February 1, 2006 through May 1, 2006. As a result of the technical problem, the facility only produces 1,600 kWh of renewable energy in 2006. However, in 2007, the project has no technical problems and produces 2,000 kWh of renewable energy. Moreover, in 2008, the project exceeds its expected annual deliveries and produces 2,200 kWh of renewable energy.

Under the White Paper's proposed methodology, the LSE purchasing from the facility discussed above would only be able to count 1,600 kWh of renewable energy deliveries in 2006 as incremental procurement. Even though the project eventually exceeded its expected annual deliveries after it worked out its start-up problems, the LSE purchasing from the project would effectively be penalized because the project attempted to come on-line as soon as possible and had start-up problems in its first year. This is not a fair result.

The Commission should look at least at the first two years, and preferably the first three years, of a new, repowered, or expanded facility's operations, and count deliveries in the second and third years of operation that exceed the previous year's production as incremental. In the example discussed above, in 2006, the 1,600 kWh of renewable energy deliveries would be incremental procurement. In 2007, the 400 kWh in excess of the 1,600 kWh produced in 2006 would be incremental procurement. In 2008, the 200 kWh in excess of the 2,000 kWh produced in 2007 would be incremental procurement.

This approach would ensure that an LSE is not punished merely because a new facility is attempting to come on-line early and has start-up problems. It also calculates incremental procurement based on a more complete look at a new, repowered, or expanded facility's production profile.

The White Paper does take an approach similar to SCE's recommended approach for projects that come on-line partway through a calendar year, but the White Paper counts the first

two years instead of the first three years.[31] For example, if a project comes on-line on June 1, 2006 and produces 750 kWh in the rest of 2006, and then produces 2,000 kWh in 2007 and 2,200 kWh in 2008, under the White Paper's approach, 750 kWh would count as incremental procurement in 2006 and 1,250 kWh would count as incremental procurement in 2007, and there would be no incremental procurement in 2008. For a project that comes on-line partway through a calendar year, the Commission should look at the first three years of production. Therefore, in the example discussed above, 750 kWh would count as incremental procurement in 2006, 1,250 kWh would count as incremental procurement in 2007, and 200 kWh would count as incremental procurement in 2008.

The White Paper proposes that increased generation associated with phasing should be categorized as incremental procurement.[32] The White Paper also correctly recognizes that, under the CEC's eligibility guidelines, incremental geothermal generation from an existing geothermal facility as a result of new capital investment counts as incremental procurement.[33] For phased projects, however, the Commission should also look at the first three years of production after the full project is on-line to account for start-up problems. For example, assume that phase 1 of a project is completed in 2006 and the project produces 700 kWh in 2006. Phase 2 of the project, the final phase, is completed in 2007 and the project produces 1,500 kWh in 2007. The project then produces 2,200 kWh in 2008 and 2,500 kWh in 2009. The Commission should count 700 kWh as incremental procurement in 2006, 800 kWh in 2007, 700 kWh in 2008, and 300 kWh in 2009.

Finally, the treatment of "baseline contract renegotiation after contract termination" in the White Paper seems appropriate. If a project contracts with an LSE but never generates due to project failure and then later contracts with the same LSE and successfully delivers, the deliveries from the project should be incremental procurement.[34] However, staff should

---

[31] White Paper at 8.
[32] *Id.* at 9.
[33] *Id.*
[34] *Id.* at 9-10.

reconsider the treatment of "baseline contract renegotiation after contract expiration." The White Paper proposes that for an existing facility with an expiring contract with LSE 1, if the facility resigns a contract with LSE 1, then the production from the facility is baseline procurement. However, if the facility signs a contract with LSE 2 instead, then the production from the facility is incremental procurement.[35]

Production from existing facilities with expiring contracts should be treated equally for all LSE purchasers. The production should be treated either as baseline procurement or incremental procurement regardless of whether the facility resigns with the LSE it had previously contracted with or signs a contract with a different LSE. The policy proposed in the White Paper is in direct conflict with the RPS goal of developing new renewable generation resources (new steel in the ground). The purported role of the IPT is to create an incentive for new renewable development. If an LSE can satisfy its IPT by "poaching" a contract from another LSE, nothing has happened that will promote new renewable development. At the State level, all that has occurred is the transfer of baseline energy to incremental. If LSEs satisfy their IPTs by signing contracts for what was baseline energy, the IPT requirement will fail to develop new generation resources.

Additionally, such a policy will create perverse bargaining incentives. Consider an example in which LSE 1 and LSE 2 are contracting with two renewable generators, Generator A and Generator B. Generator A has an expiring contract with LSE 1 and Generator B has an expiring contract with LSE 2. Because of the asymmetry of the rule proposed by the White Paper, LSE 1 (holding an expiring contract with Generator A) has an incentive to contract with Generator B, while LSE 2 (holding an expiring contract with Generator B) has an incentive to contract with Generator A.

The proposed rule may have other perverse and unintended consequences as well. For example, it is not at all difficult to imagine bidding wars over existing projects and market power

---

[35] *Id.* at 9.

for generators with expiring contracts. An LSE with an expiring contract will have little choice but to resign its contract because there will likely be no other sources of immediate deliveries of renewable energy to maintain the LSE's baseline. However, other LSEs will also have a high incentive to sign a contract with the project because they could count production from the project as incremental procurement. In the example above, if the contract between LSE 1 and Generator A is expiring, but the contract between LSE 2 and Generator B is not, Generator A can exercise market power against LSE 1 by threatening to contract with LSE 2 as an incremental energy source. The resultant market power is created by the variation in the treatment of the energy product. If one assumes that the "incremental" power offered to LSE 2 is more valuable than the "baseline" power offered to LSE 1, then LSE 1 must consider whether to pay a premium in order retain a product that has less relative value. If LSE 1 wishes to avoid baseline erosion, it must pay the price for "incremental" power, while only receiving "baseline" power.

Energy Division staff and the Commission should carefully reconsider how to treat this type of resource. There may be merit to treating such resources as incremental or as baseline, but they should not be treated differently depending on the buyer.

B. Treatment Of IPT Deficits Not Made Up Within Three Years

If an IPT deficit is not made up within three years after the year in which it occurred ***and*** the LSE is penalized on that deficit, then the deficit should be retired for both reporting and compliance purposes. If the deficit were not retired after the LSE is penalized on the deficit, then the LSE would be required to make up the same deficit it had already been penalized on in the next year, and the next year, and the next year, and so forth, and the LSE would be subject to double, triple, quadruple, or more penalties on the exact same kWhs of IPT deficit. Just as the RPS legislation seeks to ensure that no kWh of eligible renewable energy output is counted more than once as "incremental" for RPS compliance,[36] no kWh of IPT deficit should be counted more than once for the purpose of assessing penalties. Once an LSE has paid a penalty on an IPT

[36] Cal. Pub. Util. Code § 399.13(b).

deficit, the LSE has effectively "made-up" the deficit and it should not be penalized on the deficit again.

The deficit retirement does not affect the LSE's future IPTs or APTs. An LSE's IPTs and APTs should not be affected by a deficit. If an LSE has an IPT deficit that is being carried forward under the flexible compliance rules, the LSE has to make up the deficit within three years after the year of the deficit. However, the LSE's future IPTs and APTs are not being increased by the deficit; they remain the same. An LSE's targets should not be affected by its actual procurement. The IPT deficit is a separate calculation that the LSE is required to make up within three years and its retirement after the LSE is penalized does not affect the LSE's future IPTs or APTs.

The retirement of the deficit does not, however, change the fact that the LSE still has to make up the procurement to achieve 20% renewables. The LSE has a new IPT each year and faces potential penalties on that new IPT until the LSE achieves 20%. Therefore, if an LSE moves further away from achieving 20% renewables because it has not made up an IPT deficit it was penalized on, the LSE has more years with IPTs and potential penalties until it reaches 20%.

C. Audited And Documented Sources For Retail Sales

SCE is not aware of any audited and documented source for UDC bundled sales that the Commission can use to verify data used by LSEs for RPS reporting and compliance. SCE's sales of electricity by rate schedule are provided on FERC Form 1. SCE's total sales of electricity for all rate schedules is included on FERC Form 1, page 304, line 43. This total includes direct access sales. Therefore, the Commission would have to adjust this total by subtracting SCE's direct access sales to calculate SCE's UDC bundled sales. SCE is not aware of any audited and documented source of its direct access sales. However, the Commission could use SCE's reporting of its direct access sales to the Commission to adjust the total sales of electricity for all rate schedules reported on FERC Form 1.

D. Changes To RPS Reporting And Compliance Process

SCE supports the proposed revisions to the RPS reporting and compliance process discussed on page 13 of the White Paper. SCE agrees with Energy Division staff that it makes sense to submit the March 1 compliance filing on May 1 to coincide with the completion of the CEC-RPS track form and FERC Form 1. SCE would note, however, that the LSE's data in the May 1 compliance filing will not be final until the CEC adopts its final RPS verification report. The LSE may have a good idea of what its final numbers will be before the CEC issues its final report. However, in certain cases such as when the CEC is making an assessment of incremental production from existing geothermal facilities as a result of capital investment, the LSE may not know its final incremental procurement for the year until after the CEC makes a determination. Thus, if the LSE is required to include a calculation of its potential penalties pursuant to D.03-06-071, the LSE may not know its final calculation of potential penalties on May 1. The LSE should be given an opportunity to supplement its filing, its calculation of potential penalties, and its showing why it should not be penalized, after the CEC adopts its final RPS verification report, and before the Commission considers whether penalties should be assessed.

SCE also supports deleting the August 1 compliance filing and including the midyear procurement report in the LSEs' short-term RPS procurement plans. Moreover, SCE supports the suggestion made by Energy Division staff at the February 16 workshop that a working group be convened to consider a revised spreadsheet for reporting RPS compliance. These changes to the RPS reporting and compliance requirements should apply equally to all LSEs.

III.

OTHER ISSUES

A. Penalty Structure

The White Paper does not expressly state on which "targets" an LSE is subject to penalties. The White Paper establishes three "targets:" the IPT, the APT, and the baseline target. As discussed in Section II.A.3.a above, the White Paper does not expressly state that an

LSE will be subject to penalties for failing to meet its "baseline target." No penalties should be assessed for failing to achieve any type of "baseline target."

The White Paper is not entirely clear as to whether an LSE is subject to potential penalties for failing to achieve both its IPT and its APT. The White Paper does state that "[i]n order to be in compliance with the California RPS procurement targets in a given year, LSEs must meet both the APT and the IPT. If an LSE is out of compliance it is subject to penalties."[37] This statement suggests that the Commission may intend to impose penalties on both IPT and APT shortfalls.

By definition, however, the IPT is part of the APT. Therefore, imposing penalties on both IPT and APT shortfalls would lead to double penalties for the same shortfall. For example, if an LSE has 10 units of incremental procurement and its IPT is 15 units, the LSE is short, and may ultimately be liable for penalties on those 5 units. In that same year, the APT is derived by taking the prior year APT and adding the current year IPT. If the APT is now measured against total renewable generation, and nothing has changed in the LSE's portfolio with the exception of incremental procurement, the LSE will also fall short by 5 units on its APT, the same 5-unit shortfall the LSE had on its IPT. Thus, if the LSE is subject to penalties on its IPT and APT, the LSE could be penalized twice for the same 5-unit shortfall.

The issue of multiple penalties on the same shortfall was discussed at the Feb 16 workshop, and there appeared to be a general consensus against imposing multiple penalties on the same shortfall. It is unfair and illogical to penalize an LSE multiple times on the same shortfall. As discussed above, just as an LSE could not count the same kWh of renewable generation towards its RPS obligations twice, it should not be penalized on the same kWh of shortfall twice.

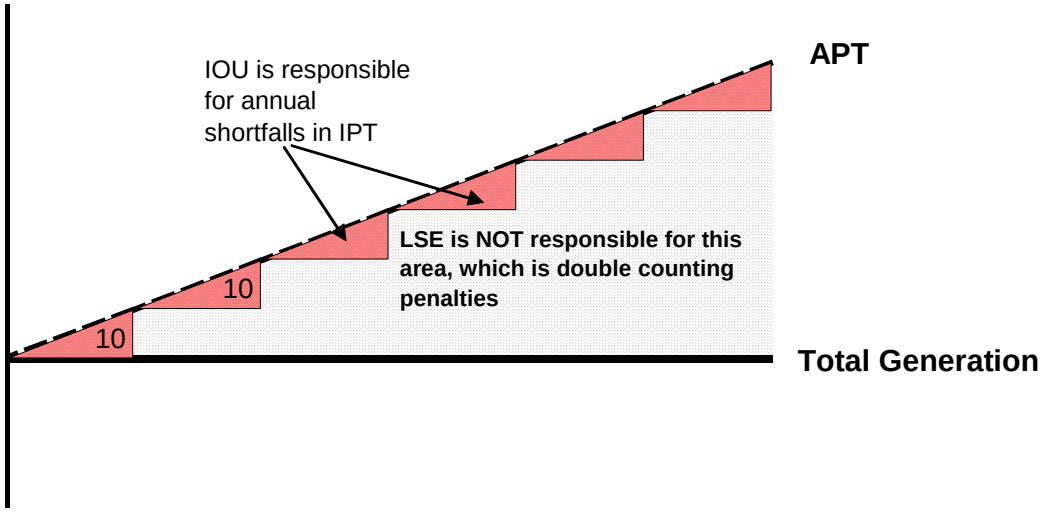
Unless the Commission decides to adopt a methodology focused on the APT only, as discussed in Section IV below, an LSE should only be subject to penalties on the IPT and should

---

[37] White Paper at 10.

not be subject to penalties on the APT. LSEs are already subject to an annual IPT that they are required to meet each year. The sole purpose of this annual IPT is to drive the LSE toward the desired APT of 20% in 2010. At that point, the APT is the controlling target.

In the example below, an LSE was only able to maintain its annual procurement at a constant level. In the first year, the LSE is short by exactly the IPT. In the second year, the LSE again has fallen short by that year's IPT. Thus, by year 2 the LSE has a shortfall of 10 units in year 1 and 10 units in year 2 for a total deficit of 20 units. Using APT as the "penalty" target on the way to 20% penalizes year 1 twice. In year 1 the LSE is assessed a shortfall of 10 units, while in year 2 the shortfall is measured to be 20 units, 10 units of which came from the previous year's shortfall. In this instance, the shortfall in year 1 has been counted twice.



The LSE is ultimately responsible for reaching the 20% target, which in this example requires the purchase of 60 units of incremental procurement. For not having reached this target, the LSE should be subject to potential penalties on the 60 unit shortfall, and be required to purchase the 60 units to meet its APT. However, the LSE should not be subject to penalties on the area under the curve, or 210 units. Requiring the LSE to procure 210 units in order to avoid penalties would drive the LSE's procurement far in excess of 20%, a result clearly at odds with the RPS legislation.

B. Flexible Compliance Rules

Section IV of the White Paper includes some discussion of the flexible compliance rules.[38] As SCE and Pacific Gas and Electric Company (PG&E) have previously explained, some modifications to the flexible compliance rules are required. In particular, although SCE and other LSEs have made aggressive efforts to contract for new renewable resources, contracts executed by LSEs will not provide actual renewable deliveries for some time because of the long-lead times for the development of renewable projects and the significant time it takes to license and build new transmission facilities for these projects. In particular, most new renewable projects will require transmission upgrades and it generally takes between four and seven years to license and construct such upgrades. The flexible compliance rules should be modified to reflect the realities of the California renewables market and California's need for new transmission infrastructure to accommodate renewables.

SCE and PG&E have previously recommended the following modifications to the flexible compliance rules:

1. Allowing earmarking of future deliveries towards 100% of the LSE's IPT.
2. Allowing earmarking for more than 3 years.
3. Allowing LSEs to use the flexible compliance rules to meet their 2010 and future RPS obligations.

These modifications to the flexible compliance rules are consistent with the RPS statute and are amply justified by the situation facing California LSEs. The Commission should consider these and other modifications to the flexible compliance rules in this proceeding.

In addition, the White Paper states that, pursuant to D.03-06-071, LSEs are entitled to carry forward deficits of greater than 25% of their IPTs if they have successfully demonstrated one of the four below conditions:

1. Insufficient response to the RPS solicitation.

---

[38] White Paper at 10-11.

2. Contracts already executed will provide future deliveries to satisfy current year deficits.

3. Inadequate public goods charge funds to cover above-market renewable contract costs.

4. Seller non-performance.[39]

These four conditions should be expanded to include other events outside the LSE's control such as:

1. Unforeseen increases in annual retail sales, including, but not limited to, increases in annual retail sales due to load reversion from other LSEs.

2. Unforeseen losses or degradation of generation from an existing renewable resource.

3. Inability to interconnect and deliver a renewable resource under contract with the LSE due to lack of transmission capacity.

4. Other unforeseen situations which make it unpractical or unreasonable to replace baseline generation in the year of baseline erosion.

C. Compliance After An LSE Reaches 20% Renewables

The White Paper does not address an LSE's compliance obligations after it reaches 20% renewables. However, since the issue was addressed at the February 16 workshop, SCE offers some thoughts on the issue here.

Achieving 20% renewables is the overriding goal of the RPS legislation. The 1% IPTs are only the means to that end. Accordingly, once an LSE achieves 20% renewables, it has achieved its RPS goal and it has no further IPTs.[40] Moreover, any prior IPT deficits the LSE may be carrying forward should be eliminated. If an LSE has achieved 20% renewables, the

---

[39] *Id.* at 11.

[40] Cal. Pub. Util. Code § 399.15(b)(1).

goal of the RPS statute, it should not be penalized for the road it took to get there. Achieving 20% should retire all past deficits.

When an LSE gets to 20% renewables, it is required to maintain a 20% renewable procurement level. The LSE is only required to meet an APT that is measured by the following calculation:

APT After Reaching 20%: 20% of Current Year Retail Sales

If the LSE achieves that APT, it is in compliance. If the LSE fails to achieve that APT, it is out of compliance. However, the LSE should not be penalized immediately. As discussed above, the LSE may have little control over fluctuations in its baseline and it would be very difficult for the LSE to procure immediate deliveries to replace a baseline shortfall in the year of the shortfall. Just as LSEs are granted some flexibility in complying with their IPTs, an LSE should have flexibility in complying with its APT after achieving 20% renewables. If an LSE that has achieved 20% thereafter falls short of its APT, it should be entitled to use the same flexible compliance rules to make up its APT deficit that LSEs can currently use to make up IPT deficits. For example, an LSE should be able to carry forward a deficit of up to 25% of its APT for up to three years past the year of the deficit. An LSE should also be able to earmark towards its APT.

IV.

ALTERNATIVE METHODOLOGY

In this section, SCE proposes that the Commission consider an alternative RPS compliance methodology that focuses on the APT. While SCE appreciates the effort and thought given by Energy Division staff to the issues addressed in the White Paper and to attempting to achieve a workable and complete RPS accounting methodology, the rules and the proposed accounting methodology have become inordinately complex. In developing RPS accounting and reporting rules, SCE believes that the Commission should adhere to the principle that simpler is better. The methodology proposed in the White Paper is certainly not simple.

An APT-centered methodology could make the RPS program considerably simpler while being equally effective in implementing the State's RPS goals. In particular, the APT measures every aspect of an LSE's renewable procurement that the Commission is concerned about: baseline, increasing renewable procurement by 1% per year, and achieving 20% by 2010. Under an APT-centered methodology, much of the complexity of the current RPS accounting rules would be eliminated, however, because the LSE's compliance is measured solely by comparing the LSE's total renewable procurement against its APT. This simplicity would make it easier for the large IOUs to track compliance with the RPS program and would also aid ESPs, CCAs, and other LSEs who are just beginning to comply with the program.

Furthermore, an APT-centered methodology is consistent with the RPS legislation and prior Commission decisions, as well as the other principles SCE identified in Section I of these comments. The RPS legislation only refers to an "annual procurement target" so a methodology centered on the APT is fully consistent with the statute.[41] Moreover, the Commission's prior decisions implementing the RPS program also focus on the APT. For example, in D.03-06-071, the Commission focused on the APT and stated that "the flexible compliance mechanism applies to annual procurement targets only."[42] An APT centered methodology is therefore consistent with prior Commission decisions. Finally, and most importantly, an APT-centered methodology gets all LSEs to the overall goal of the RPS legislation – 20% renewables.

SCE is aware that an APT-centered methodology may have some drawbacks. However, SCE recommends that the Commission fully consider such a methodology, possibly through workshops or a small working group, because a methodology centered on the APT appears to be a simpler and more rational way to achieve the goals of the RPS legislation.

---

[41] Cal. Pub. Util. Code § 399.15(b).
[42] D.03-06-071, *mimeo.*, at 40.

A. One Target – APT

The only target that matters in this methodology is the APT. The LSE's RPS compliance is measured by looking at its total renewable procurement versus its APT and the LSE is only subject to penalties on its APT shortfall. The APT holds the LSE accountable for maintaining its baseline of renewable procurement and for increasing its renewable procurement by 1% per year. Therefore, there is no need to calculate a baseline target and no need for a separately methodology dealing with baseline erosion. These are covered by the APT.

The APT is calculated just as it is under the White Paper methodology:

Current Year APT = Prior Year APT + Current Year IPT

Moreover, just as under the White Paper methodology, it is necessary to calculate the first year APT, *i.e.*, the APT for 2004, without reference to a prior year APT because there was not an APT for 2003. For the large IOUs, the 2004 APT can be calculated as follows:[43]

2004 APT = 2001 Total Renewable Procurement + 2002/2003 Interim Procurement Benchmark + 2004 IPT

B. One Procurement Measure – Total Renewable Procurement

Under the APT-centered methodology, there is no need to look separately at baseline and incremental procurement. There is one procurement measure: total renewable procurement. This includes all of the LSE's procurement from eligible renewable energy resources for the year. The LSE's compliance is measured as follows:

Annual Surplus or Deficit = Total Renewable Procurement - APT

Some have expressed a concern that by not separating out baseline from incremental, an incentive will exist for LSEs to buy only existing renewable generation. However, all existing renewable generation is already in some LSE's portfolio and all LSEs are currently short renewables. The only long-term solution for LSEs is to contract for new renewable generation.

---

[43] The first year APTs for other LSEs would have to calculated with reference to their baselines.

The large IOUs have spent the last few years aggressively contracting with new renewables because they need new renewable generation. An APT-centered methodology will still encourage the development of new renewable resources.

C. IPT

Under an APT-centered methodology, the IPT is still calculated as follows:

IPT = 1% of Prior Year Retail Sales

However, the LSE's compliance with the IPT is not measured separately and the LSE is not subject to penalties for failing to comply with the IPT alone. The IPT is only used to build up the APT towards 20% and the LSE's compliance with the IPT is measured through its compliance with the APT.

D. Surpluses And Deficits And Forward Banking

As discussed above, the LSE's annual surplus or deficit is measured by taking total renewable procurement minus the APT. There is no banking forward of incremental procurement because incremental procurement is not accounted for separately. However, the LSE can bank forward an APT surplus indefinitely and use it to meet future APT deficits.

E. Flexible Compliance Rules

In an APT-centered methodology, the flexible compliance rules would apply to the APT, not the IPT. Therefore, the LSE could carry forward a 25% deficit on its APT for three years past the year of the deficit and could also earmark towards its APT. In addition, SCE advocates modifications to the flexible compliance as discussed in Section III.B above.

F. Calculation Of Penalties For Non-Compliance

An LSE would be subject to potential penalties for failure to meet its APT, not its IPT. However, because total renewable procurement and the APT are both cumulative in nature, the Commission would have to ensure that an LSE was not subject to multiple penalties on the same shortfall. This issue is discussed in Section III.A above.

V.

CONCLUSION

For the foregoing reasons, SCE respectfully requests that the Commission adopt SCE's comments on the White Paper and other RPS reporting, accounting, and compliance issues.

Respectfully submitted,

FRANK J. COOLEY
BERJ K. PARSEGHIAN
CATHY A. KARLSTAD

By: Cathy A. Karlstad

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY
2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-1096
Facsimile: (626) 302-1904
E-mail: Cathy.Karlstad@sce.com

Dated: March 13, 2006

RPS ANNUAL PROCUREMENT TARGETS

REPORTING and COMPLIANCE

STAFF WHITE PAPER

Methodology for Determining Loading Serving Entity Compliance with the Renewables Portfolio Standard (RPS) 20% by 2010 Procurement Requirement

Prepared by the Energy Division of the California Public Utilities Commission

Principal Author - Susannah Churchill

In collaboration with the Renewable Energy Program
of the California Energy Commission

February 14, 2006

Table of Contents

I. Introduction

California Senate Bill (SB) 1078 established the California Renewables Portfolio Standard (RPS) program with a stated intent of ensuring that 20% of electricity purchases in California in 2017 come from eligible renewable energy sources. To reach that goal, the legislation requires all load-serving entities (LSEs) to which it applies to increase their renewable energy procurement by at least 1% of retail sales per year.[1] The legislation also requires that the California Public Utilities Commission (CPUC) develop flexible rules for compliance including, but not limited to, permitting electrical corporations to apply excess procurement in one year to subsequent years or inadequate procurement in one year to not more than the following three years.[2]

The State's Energy Action Plan (EAP) called for acceleration of the RPS goal to reach 20% by 2010. This was reiterated in the Order Instituting Rulemaking (R.04-04-026) issued on April 28, 2004[3], which encouraged the utilities to procure cost-effective renewable generation in excess of their RPS annual procurement targets in order to make progress towards the goal expressed in the EAP. The 20% by 2010 target was most recently reaffirmed in D.05-07-039 and D.05-11-025.[4]

This white paper seeks to clarify compliance and reporting rules for all load-serving entities to whom the California RPS applies. In addition to investor-owned utilities (IOUs), Energy Service Providers (ESPs), Community Choice Aggregators (CCAs), and Small/Multi-Jurisdictional Utilities (SMJUs) should assume that these rules will apply to them, though some adjustments may be necessary (e.g. modifying the incremental procurement target calculation).

Parties will be provided several opportunities to comment on the Staff white paper: (1) February 16, 2006 CPUC reporting workshop, (2) post-workshop comments and reply comments, and (3) comments and reply comments on the CPUC proposed decision that adopts the clarified RPS reporting and compliance rules.[5]

II. RPS Reporting and Compliance - CEC and CPUC Responsibilities

Under SB 1078, CPUC and California Energy Commission (CEC) collaboratively implement California's RPS. The division of labor pursuant to the legislation and collaborative agreement is as follows:

CPUC is responsible for:

- Approving or rejecting contracts executed to procure RPS-eligible electricity
- Establishing each LSE's initial baseline and adjusting the baseline going forward

[1] See, Public Utilities Code § 399.15(b)(1)
[2] See, SB 1078, section 399.14(a)(2)(C)
[3] See, R.04-04-026, p. 6.
[4] See D. 05-07-039 (pg. 14-15) and D.05-11-025677 (pg. 24, CoL #1)
[5] The California Energy Commission will develop and refine its verification of RPS procurement pursuant to legislation and the RPS reporting and compliance guidelines adopted by the Commission.

- Determining each LSE's procurement targets annually
- Implementing flexible compliance rules
- Making determinations regarding RPS compliance
- Imposing penalties for non-compliance

CEC is responsible for:

- Certifying renewable generating facilities as RPS-eligible
- Verifying the RPS-eligibility of energy procured to meet RPS targets
- Certifying "incremental geothermal" facilities and identifying the amount of generation that qualifies as incremental geothermal[6]
- Verifying, to the extent possible, that RPS procurement exclusively serves the California RPS and does not support a separate market claim for renewable energy procurement
- Verifying that RPS procurement from out-of-state facilities meets delivery requirements
- Applying statutory requirements to identify baseline procurement and applying CPUC's rules, to the extent possible, to identify baseline, incremental procurement, and annual procurement
- Comparing CPUC's annual procurement targets and incremental procurement targets for each LSE with the Energy Commission's findings for how much procurement qualifies toward the targets

III. RPS Reporting: Definitions and Methodology

The set of definitions and methodologies that are used in RPS reporting have been developed in a series of CPUC decisions. In this section we seek to clarify and expand upon these definitions and methodologies.

A. Annual Procurement Target (APT)

An LSE's APT for a given year is the total amount of renewable generation an LSE must procure in order to meet the statutory requirement that it increase its renewable procurement by at least 1% of retail sales ~~per~~ in that year.[7] IOUs are required to comply with this APT procurement obligation effective January 1, 2004.[8] Non-IOU LSE~~'~~s are required to comply with this APT procurement obligation effective January 1, 2006.

[6] Public Utilities Code Section 399.12(a)(2) states that "The Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of the steamfields and contribution of capital improvements in the facility or wellhead."

[7] See, D.03-06-071, p. 7, fn. ~~9~~5.

[8] Regarding the IOUs' pre-2004 RPS procurement obligations, D.~~-~~02-08-071 and D.04-06-014 established an interim procurement benchmark for 2002/2003 and a methodology for determining the 2003 baseline. D. 03-06-071 laid out the methodology for determining the APT for 2004 and beyond.

The 2004 APT is calculated as follows~~consists of two separate components~~:

2004 APT = 2001 total renewable procurement + 2002/2003 Interim Procurement Benchmark + 2004 IPT

~~1.Current year baseline target - representing the total amount of renewable procurement from the prior year that the utility must retain in its portfolio (i.e., prior year APT).~~

~~2.Incremental procurement target (IPT) - defined as at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.~~[9]

In subsequent years, ~~T~~the APT is calculated using the following equation:

Current year APT = ~~current year baseline target~~ prior year APT + current year IPT[10]

Table 1: 2004 - 2010 Annual Procurement Target Calculation (kWh)

#		2003	2004	2005	Calculation
A	Retail Sales	1000	1000	1000	- -
B	~~Current Year Baseline~~ Prior Year APT	~~500~~N/A	500	510	prior year D
C	Incremental Procurement Target	N/A	10	10	prior year A * 1%
D	Annual Procurement Target	~~N/A~~500[11]	510	520	B + C

~~Note: Because the 2003 baseline target included the 2002/2003 interim procurement benchmark, t~~There is no APT for 2003.

[For additional discussion regarding APT, see SCE's Comments on Staff White Paper, Section II.A.2]

[For additional discussion regarding 2002/2003 Interim Procurement Benchmark, see SCE's Comments on Staff White Paper, Section II.A.1]

B. Baseline Status ~~Target~~ (BS~~T~~)

[For additional discussion regarding Baseline Status, see SCE's Comments on Staff White Paper, Section II.A.3.a]

The 2004 Baseline Status is calculated as follows:

2004 BS = 2001 total renewable procurement + 2002 IP + 2003 IP

In subsequent years, Baseline Status is calculated as follows:

[9] ~~See, R. 04-04-026, p. 5~~

[10] D.04-06-014, Appendix B-2 defined APT for IOUs as prior year renewable baseline procurement + IPT. While this is correct for determining the 2004 APT, it would be more accurate to say that APT for 2005 – 2010 equals prior year APT + current year IPT.

[11] This is 2001 total renewable procurement plus 2002/2003 interim procurement benchmark for the large IOUs.

Current year BS = prior year BS + prior year IP

An LSE's annual baseline target represents the amount of RPS-eligible procurement that it was required to buy in the prior year and must retain in its portfolio going forward. LSEs must meet their annual baseline target to satisfy their RPS procurement obligations.[12] Note: Staff uses the term "baseline target" in this proposal to clearly delineate baseline targets from baseline procurement.

1. IOU Baseline Targets:

i)2003 IOU Initial Baseline Target

For purposes of setting annual procurement targets, PU Code 399.15(a)(3) defined the initial baseline for each electrical corporation as the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward. Consequently, the Commission revised the initial baseline calculation to include renewable generation procured in the period between legislative enactment and the issuance of OIR.04-04-026, thus establishing 2003 as the initial baseline year for IOUs.[13] The 2003 initial baseline target is calculated using the following equation:

2003 IOU Initial Baseline Target = 2001 total renewable procurement + 2002/2003 interim procurement benchmark (2001 retail sales * 1%)[14]

Table 2: 2003 Baseline Target Calculation (kWh)

#		2001	2002	2003	Calculation
A	Retail Sales	1000	1050	1100	--
B	Total Renewable Procurement	100	--	--	--
C	2002/2003 Interim Procurement Benchmark	N/A	--	10	A (2001) * 1%
D	Baseline	N/A	N/A	110	B (2001) + C

ii)2004 IOU Baseline Target Calculation

Because the 2003 baseline target included the 2002/2003 interim procurement benchmark, there is no APT for 2003. Therefore, the 2004 baseline target is simply the 2003 baseline target.

iii)2005 - 2010 IOU Baseline Target Calculation

(1)The baseline targets for 2005 - 2010 are calculated by adding the prior year's incremental procurement target (IPT) to the prior year's baseline

[12] See, R. 04-04-026, p. 5

[13] See, D. 04-06-014, p. B-2: "Definition: Initial RPS generation baseline is defined as all RPS-eligible renewable generation in a utility's 2003 portfolio, not including any renewable generation procured in excess of what was required by D.02-08-071."

[14] Procurement in excess of the 2002/2003 interim procurement benchmark can be used to meet future RPS obligations (see, D. 04-06-014, pp.10-11.)

~~target, i.e., current year baseline target equals prior year APT. The 2005-2010 IOU baseline target is calculated using the following equation:~~

~~2005 – 2010 IOU Baseline Target = prior year baseline target + prior year IPT~~

Table 3: 2005-2010 Baseline Status~~Target~~ Calculation (kWh)

#		2004	2005	2006	Calculation
~~A~~	~~Retail Sales~~	~~2000~~	~~2100~~	~~2200~~	~~n/a~~
~~B~~	~~Baseline Target~~	~~110~~	~~121~~	~~141~~	~~prior year D~~
C	Incremental Procurement ~~Target~~	11	20	21	~~prior year A * 1%~~
D	~~Annual Procurement Target~~Baseline Status	121	~~141~~ 132	~~162~~ 152	prior year D~~B~~ + prior year C

~~2.Baseline Targets for non-IOU LSEs~~

~~Pursuant to D.05-11-025, non-IOU LSEs are required to utilize the same reporting and compliance mechanisms as IOU. Staff acknowledge that adjustments to the methodology may be required. Staff expect that these adjustments will be identified in the workshop and the post-workshop comments.~~

C. Baseline Procurement

[For additional discussion regarding Baseline Procurement and Baseline Erosion, see SCE's Comments on Staff White Paper, Section II.A.3.b]

Baseline procurement is energy that is either 1) from RPS-eligible facilities that were under contract in 2001,[15] 2) statutorily restricted to baseline[16], or 3) has been previously allocated to one of the LSE's prior incremental procurement targets.[17]

Current year baseline procurement = current year total renewable generation – current year incremental procurement

1. Treatment of Baseline Erosion

Baseline erosion occurs when the current year's baseline procurement is less than the current year's baseline status ~~target~~. Specifically, if deliveries from an RPS-certified generator under contract with an IOU cease or decrease for any reason, then the LSE's baseline will decline assuming all other procurement remains equal.

Given that the RPS goal is to both maintain the baseline level of renewable procurement and to satisfy the IPT in each year, any shortfall created by baseline

[15] See, SB 1078, section 399.15(a)(3)
[16] See, SB 1078, section 399.12(a)(1)
[17] This definition agrees the definition of baseline procurement that CEC uses in its first Renewables Portfolio Standard Verification Report (Verification Report).

erosion in a given year must be made up with additional procurement ~~in that year~~.[18] Shortfalls due to baseline erosion may be made up with any or all of the following three types of procurement:

i) Baseline procurement from a facility already under contract with the LSE

ii) Baseline procurement from a facility categorized by the CEC as non-incremental and is not already under contract with the LSE

iii) Incremental procurement with deliveries in the current year

~~If an LSE is unable to address the baseline erosion in the current year using the procurement options outlined above then the deficit is added to the current year's IPT. By adding the deficit to the IPT, LSEs can use deficit banking and earmarking to temporarily defer their compliance obligation. See Sections III(E) and IV for a discussion of incremental procurement and the relevant flexible compliance rules.~~

D. Incremental Procurement Target (IPT)

[For additional discussion regarding Incremental Procurement Target, see SCE's Comments on Staff White Paper, Section II.A.4]

The incremental procurement target represents the amount of RPS-eligible renewable procurement that must be procured in the current year, over and above what is already in an LSE's portfolio.[19] An LSE's IPT in a given year is defined as at least 1% of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.[20] It should be noted that the Commission retains the authority to increase this amount above 1% to meet state goals for renewable procurement, and also that the minimum 1% incremental procurement increase per year will not get all LSEs to the required 20% by 2010.

1. IOU IPT Calculation

The IOU IPT, which first applies in 2004, is calculated using the following equation: [21]

IPT = 1% of prior year retail sales ~~+ current year baseline erosion shortfall~~[22]

2. Non-IOU IPT Calculation

Pursuant to D.05-11-025, non-IOU LSEs are required to utilize the same reporting and compliance mechanisms as IOU. Staff acknowledge that adjustments to the methodology may be required. Staff expects that these adjustments will be identified in the workshop and the post-workshop comments.

[18] See, D. 04-04-026 (pg.5) and D. 03-06-071 (pg. 46-47)
[19] RPS compliance is determined on a 12 month (calendar) basis.
[20] See, SB 1078, Sections 399.15(b)(1) and 399.15(b)(2), and D. 04-06-014, p. B-1
[21] D. 04-06-014, p. B-1
~~22 if LSE is unable to contract for baseline/incremental deliveries in the current year~~

E. Incremental Procurement (IP)

[For additional discussion regarding Incremental Procurement, see SCE's Comments on Staff White Paper, Section II.A.5]

Incremental procurement for a given LSE ~~is defined as the first twelve consecutive months of~~includes renewable procurement from a new ~~or repowered~~ RPS-eligible facility or a new contract for procurement from an existing RPS-eligible facility that has not been under contract to that LSE since January 1, 2001[23]. Incremental procurement also includes the increased output from existing RPS-eligible facilities as a result of repowering or expansion. To clearly delineate incremental procurement from non-incremental (baseline) procurement and from the incremental procurement target, staff uses the term incremental procurement (IP).

Only IP can be used to meet an IPT. If IP is used to meet procurement targets in one year, then it is considered baseline procurement in the years thereafter. If it is not used to meet procurement targets, it is considered IP surplus and can be banked forward. See section IV(A) for a detailed discussion of the banking of IP surpluses/deficits. While RPS compliance is determined on a 12 month (calendar) basis, incremental procurement is defined ~~as the 1st 12 months of generation~~based on the methodology discussed below.[24] ~~Outlined below are three such instances where incremental generation might not be on a 12 month calendar basis: partial deliveries in the first year, phased project, and terminated/renegotiated contracts.~~

1. Incremental Determination for New Facilities

Any incremental generation in year 1 is counted as IP. The generation in year 2, less year 1 generation, is counted as IP in year 2. The generation in year 3, less year 2 generation, is counted as IP in year 3.

Example: In year 1 an LSE executes a 20 year contract with project A for 10 units of generation per year. Project A comes online in January and generates 7 units of incremental procurement in year 1. In year 2, project A delivers 9 units. Only 2 units are considered incremental procurement in year 2, the remaining 7 units are considered baseline procurement. In year 3, project A delivers 10 units. Only 1 unit is considered incremental procurement in year 3, the remaining 9 units are considered baseline procurement. In year 4 and thereafter, all 10 units of generation are categorized as baseline procurement.

[23] Subject to specific criteria and restrictions that apply to certain geothermal, small hydroelectric and municipal solid waste combustion facilities as set forth in the Renewable Portfolio Standard Eligibility Guidebook (August 2004, Publication Number 500-04-002F1)

[23] D. 05-07-039 (p.14) provided an exemption from the calendar year compliance rule for the 2005 RPS solicitation. Specifically, 2005 RPS contracts signed by June 30, 2006 may be counted as "contracts already executed" for 2005.

1. Incremental Determination for Partial Generation

Any incremental generation that comes on partway through year 1 is counted as IP. The generation in year 2, less year 1 generation, is counted as IP in year 2.[25] The generation in year 3, less year 2 generation, is counted as IP in year 3. ~~Procurement after the first 12 months of operation is categorized as baseline procurement.~~

Example: In year 1 an LSE executes a 20 year contract with project A for 10 units of generation per year. However, project A comes online in June instead of January, so it only generates 5 units of incremental procurement in year 1. In year 2, project A delivers 9~~10~~ units. Only 4~~5~~ units are considered incremental procurement in year 2, the remaining 5 units are considered baseline procurement. In year 3, project A delivers 10 units. Only 1 unit is considered incremental procurement in year 3, the remaining 9 units are considered baseline procurement. In year 4~~3~~ and thereafter, all 10 units of generation are categorized as baseline procurement.

Table 4: Incremental Determination: Partial Generation

#		Year 1	Year 2	Year 3	Calculation
A	Contracted kWh	10	10	10	
B	Delivered kWh	5	~~10~~9	10	
C	IP	5	~~5~~4	~~0~~1	B - (Prior years C)
D	Baseline	0	5	~~10~~9	B – C

2. Incremental Determination for Phased Projects

A phased project is defined as a project with generation that will increase as new capacity is added in phases (e.g., Stirling solar facility). Increased generation due to phased expansion may be categorized as IP. This is analogous to CEC's eligibility guideline that allows incremental geothermal generation from an existing geothermal facility to be categorized as IP if the procurement increase is a result of new capital investment.[26] Incremental determination for a phased project is not unit specific; instead, it is based on the aggregate generation procured from the entire facility. Moreover, just as with new projects that are not phased, the Commission will look at the first three years of the project's production after the full project is on-line to determine the incremental procurement from the project.

3. Incremental Determination for Terminated and Renegotiated Contracts

~~Assuming that the generation has not been categorized by the CEC as baseline generation, newly procured generation will count either as baseline or incremental procurement, depending on whether the LSE has previously procured from the project in question.~~

i) Baseline contract renegotiation after contract expiration:

[25] CEC's Renewables Portfolio Standard Verification Report, February 2006, p. 14.
[25] See CEC's Renewables Portfolio Standard Eligibility Guidebook, August 2004, p.10.

(1) Example – Suppose an LSE has a baseline contract that expired in 2004 but the LSE successfully renegotiated the contract. Because the facility was an existing facility from which the LSE had procured electricity, procurement associated with the renegotiated contract is considered baseline procurement, not incremental procurement.

(2) Example - Suppose a project was providing baseline procurement to LSE 1. The contract expires and LSE 2 (who has not had a contract with the project in 2001 or later) signs a contract with the same project. ~~Assuming that the project is not statutorily restricted to baseline, t~~The procurement from the project would be considered ~~incremental~~ baseline procurement for LSE 2.

ii) Baseline contract renegotiation after contract termination:

(1) Example - Project A (eligible for RPS - incremental determination) contracts with an LSE but never generates due to project failure. Project A participates in another solicitation held by the same LSE and successfully signs a new contract with the LSE. The deliveries from project A would be considered incremental procurement because the project never delivered under the first contract.

IV. RPS Compliance: Definitions and Methodology

[For additional discussion regarding RPS Compliance: Definitions and Methodology, see SCE's Comments on Staff White Paper, Section III.B]

In order to be in compliance with the California RPS procurement targets in a given year, LSEs must meet both the APT and the IPT. If an LSE is out of compliance it is subject to penalties.[27] However, pursuant to D.03-06-071 and D.05-07-039, LSEs are allowed some flexibility regarding RPS compliance in a given year. Specifically, LSEs can bank forward surplus/deficit procurement (banking) and are allowed, in certain cases, to use contracts with future deliveries to temporarily defer a determination of compliance (earmarking). It should be noted that this flexibility does not negate the requirement that LSEs have 20% of their retail sales served by RPS-eligible procurement by 2010.

In addition, D. 03-06-071 allows LSEs to carryover 100% of their APT for the first year of their participation in the program without having to demonstrate to the Commission that any shortfall meets one of the four automatic exemptions discussed hereafter. Any use of this 100% exemption for the first year is subject to the requirement that it be made up within three years, as per the 25% automatic exemption to be granted in subsequent years.[28]

[27] D. 03-06-071, p.50 adopts a penalty of 5 cents per kilowatt-hour, with an overall annual penalty cap of $25 million per utility.
[28] See, D. 03-06-071, p.49, fn. 41.

Non-creditworthy LSEs are also exempt from procuring under the RPS program.[29] If an LSE is not creditworthy, its APT is banked forward until it is creditworthy. RPS compliance requirements are not triggered until the beginning of the first calendar year after the LSE is deemed creditworthy by the Commission.[30]

A. Forward Banking of Incremental Procurement - Surpluses and Deficits

[For additional discussion regarding Forward Banking of Incremental Procurement - Surpluses and Deficits, see SCE's Comments on Staff White Paper, Section III.B]

Pursuant to D.03-06-071**,** any current year IP that is not used to satisfy current year procurement targets is considered IP surplus and can be banked forward indefinitely until it is used to meet an RPS procurement target. Once IP surplus is used to meet a procurement target (i.e., baseline target or IPT), it is considered baseline procurement in the following year and the years thereafter.

By contrast, IP deficits occur when IP procured in a given year is not enough to meet ~~both~~ the IPT ~~and any baseline erosion shortfall that has not been made up with baseline procurement~~. IP surplus/deficits in a given year are determined using the following equation:

IP – IPT ~~– baseline erosion (if applicable)~~ = surplus/(deficit)

An IP deficit measuring less than or equal to 25% of that year's IPT can be carried forward, without CPUC approval, for up to three years. While an IP deficit of less than or equal to 25% of IPT can be rolled forward, it must be offset with actual procurement within the following three years, i.e., earmarking cannot be used. Note: Past decisions, most recently D.05-07-039, did not expressly state that the flexible compliance rules are based on the IPT. [31] Staff clarify here that the 25% ~~-~~and 75% flexible compliance threshold**s** ~~is~~ are in relationship to the IPT, not the APT.[Past Decision(s) may not be consistent with this statement]

Pursuant to D.03-06-071, LSEs are allowed to carry forward, for up to three years, IP deficits greater than 25% of that year's IPT if they have successfully demonstrated to the CPUC one of the four below conditions:[32]

1. Insufficient response to the RPS solicitation
2. Contracts already executed will provide future deliveries sufficient to satisfy current year deficits (see section IV(B) on earmarking below)
3. Inadequate public goods funds to cover above-market renewable contract costs
4. Seller non-performance.

[29] PU Code § 399.14(a)(1)
[30] D.03-06-071, pg. 53
[31] See, D. 03-06-071 pp. 47-49 and D. 05-07-039 pp. 12-13.
[32] See, D. 03-06-079 p.49.

D.03-06-071 requires LSEs to meet their current year IPT before addressing prior year deficits. For example, if an LSE has an IP deficit in ~~both~~ years 1, ~~and~~ 2, and 3, then in year ~~4~~3 the LSE must meet its procurement obligations in the following order:

1. Year ~~4~~3 IPT (current year)
2. Year 1 deficit
3. Year 2 deficit
4. Year 3 deficit

If a deficit is not offset with incremental procurement by the end of the fourth~~third~~ year, the LSE is out of compliance and penalties may be assessed.

[For additional discussion regarding Penalties and Compliance above, see SCE's Comments on Staff White Paper, Section III.A. & Section II.B.]

B. Earmarking Incremental Procurement

[For additional discussion regarding Earmarking Incremental Procurement, see SCE's Comments on Staff White Paper, Section III.B.]

D.05-07-039 expanded upon the flexible compliance guidelines outlined in D.03-06-071 by allowing the LSEs, beginning in 2005, to earmark incremental procurement (IP_E) that will deliver in the future. Specifically, earmarking is a flexible compliance tool that allows an LSE to temporarily defer current year compliance by using contracts with future deliveries to the current year's RPS procurement obligations.

Earmarked procurement can only be used to defer compliance for an IP deficit that is greater than 25% of a given year's IPT. If the earmarked contracts do not deliver within three years or by December 31, 2010, whichever is sooner, the LSE is out of compliance for the year for which the contracts were earmarked. Lastly, earmarked procurement can be counted only once, and cannot be banked forward as surplus.

Table 5: IP Deficit Eligible for Earmarking Calculation

#		Year 1	Calculation
A	IPT	4	Prior year retail sales * 1%
B	IP (delivered)	0	- -
C	IP deficit	4	A - B
D	IP deficit eligible for earmarking	3	C – (A * 25%)

V. RPS Reporting and Compliance Process

[For additional discussion regarding RPS Reporting and Compliance Process, see SCE's Comments on Staff White Paper, Section II.D.]

In order to ensure each LSE meets its APT and IPT requirements as outlined above, each LSE is required to make a filing on March 1 outlining its results in achieving the prior year APT and IPT. In addition, on August 1 (or the next business day thereafter) of each year, each LSE should make a filing to the Commission outlining its progress toward achieving that year's APT and IPT, using a similar format to the March 1 filing.

In the March 1 filing, each LSE should clearly indicate its baseline target, APT and IPT for the relevant year, its additional renewable procurement that is eligible to meet this requirement, sorted by renewable source type (e.g., wind, solar, biomass, geothermal, etc.), an accounting of past, current and anticipated future deficits and any additional information deemed necessary based on consultation with the Commission's Energy Division. The August 1 filing should contain the same information but with a clear delineation between actual and forecast quantities for the applicable year.

If the LSE has met its APT and IPT, subject to the flexible compliance mechanisms adopted in D.03-06-071 and D.05-07-039, the March 1 filing will be only a compliance filing. However, if the LSE is below the 75% annual threshold described above, this filing is the LSE's opportunity to demonstrate why its IPT shortcoming is a result of one or more of the four reasons for non-compliance outlined above.

If the LSE's shortcoming is not a result of one or more of these reasons, this filing represents the LSE's opportunity to seek approval for annual shortfalls greater than 25% of the IPT if the conditions of PU Code §399.14(c) are triggered[33] or to convince the Commission that a deferral would promote ratepayer interests and the overall procurement objectives of the RPS program. [34]

The March 1 filing should also include an LSE calculation of any penalties to be assessed for IPT or APT deficits, calculated based on the penalty levels described in D.03-06-071 (or any future modification of that penalty), which the Commission can choose to alter by taking the above outlined factors into consideration.[35] The Commission will act within 90 days of receiving this filing, if Commission action is necessary.[36]

Lastly, any LSE may seek CPUC advance approval of any expected IPT shortcoming beyond the 75% threshold, or any expected APT shortcoming, by making a filing of its own volition. Given the long duration of RPS-eligible contracts, an LSE should have the information to pursue this option if it prefers.[37]

[33]Under PU Code §399.14(c), the Commission may direct a utility to conduct a new solicitation if it determines that "bid prices are elevated due to a lack of effective competition amongst the bidders."
[34] D.03-06-071, pg.52

[35] On May 1, LSEs are required to file RPS-Track forms with the CEC35 and Form 1 with FERC. After CEC gets the RPS-Track forms, it issues an RPS verification report that verifies RPS-eligible procurement for that year. CPUC is not able to determine RPS compliance until CEC has issued its verification report.
[36] D.03-06-071, pg. 52
[37] D.03-06-071, pg.52-53

VI. Proposed Revisions to Reporting - Compliance Process

[For additional discussion regarding Proposed Revisions to Reporting - Compliance Process, see SCE's Comments on Staff White Paper, Section II.D.]

In order to simplify the reporting process and promote transparency, Staff proposes the following:

1. The March 1 APT compliance report should instead be submitted on May 1 to coincide with LSE completion of the CEC RPS-Track form and FERC Form 1. Ideally, the procurement numbers reported in the CEC-RPS track form, CPUC APT compliance report, and the FERC Form 1 will be using the same procurement data. CPUC would use the data in the May 1 APT Compliance report to determine LSE RPS compliance. Final determination will not be made until CEC has formally adopted its RPS verification report.
2. The August 1 APT compliance filing, which reports on RPS procurement for the year to date, should be deleted. Instead, the LSE would incorporate this midyear procurement report into its short-term RPS procurement plan, which will be filed early 4th quarter of every year. An updated version of the APT compliance spreadsheet (submitted on May 1) would also be filed with the short-term RPS procurement plan as workpapers.

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) COMMENTS ON STAFF WHITE PAPER TITLED "RPS ANNUAL PROCUREMENT TARGETS: REPORTING AND COMPLIANCE" on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

- ☐ Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.
- ☐ Placing the copies in sealed envelopes and causing such envelopes to be delivered by hand or by overnight courier to the offices of the Commission or other addressee(s).
- ☐ Placing copies in properly addressed sealed envelopes and depositing such copies in the United States mail with first-class postage prepaid to all parties.
- ☐ Directing Prographics to place the copies in properly addressed sealed envelopes and to deposit such envelopes in the United States mail with first-class postage prepaid to all parties.

Executed this **13th day of March 2006,** at Rosemead, California.

_____

Lizette Vidrio
Project Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770

Benefit/Cost Analysis

Proposals are ranked based on a benefit-to-cost (B-C) ratio that weighs the total costs with the benefits to SCE's resource portfolio.

$$\text{B-C Ratio} = \frac{\text{Present Value of Total Benefits}}{\text{Present Value of Total Costs}}$$

Energy Value

- Global Energy Decisions' RiskSym model used to perform hourly, least-cost dispatch of SCE resource portfolio with and without each Proposal (replaced with a combustion turine)
- Change in total portfolio production cost is the energy benefit of the Proposal
- Captures remarketing & dispatchability characteristics of evaluation

Capacity Value

- The maximum production amount that SCE can reasonably rely upon during peak periods.

Direct Costs

- *Contract Payments* – based on the proposed energy price, expected generation profile and contract term.

Indirect Costs

- *Integration* – costs needed to maintain a reliable energy supply.
- *Transmission* – cost adders drawn from relevant Transmission Ranking Cost Report
- *Debt Equivalence* – impacts of contract commitments on SCE's balance sheet.

Capturing Best-Fit / Least-Cost Balance

SCE attempts to capture all aspects of both portfolio fit and total cost by incorporating them in the benefit-to-cost ratio.

Best Fit – quantify and maximize the value of products that "fit" better into SCE's resource portfolio

- Production simulations capture the impact a project will have on the total cost to serve customer demand
- Hourly dispatch assigns higher value to hours where SCE portfolio has a need for energy, and decreased value when SCE is net long.
- Excess energy sold at a discount to market (remarketing cost)
- Weighs the impact of a flexible, dispatchable contract versus a must-take on the portfolio

Least Cost – minimize the sum of all direct and indirect costs that will impact customers

- Direct costs are tied to signing a contract for renewable generation (i.e., energy payments to the renewable developer).
- Indirect costs are those created by the secondary impacts of adding projects to the system & the Company's balance sheet (e.g., the costs of additional transmission & ancillary services.

By assigning benefits and cost values to different aspects of each Proposal, SCE attempts to sign projects that maximize fit (benefits), while minimizing potential incurred costs to customers.